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The Chairman,
Airports Economic Regulatory Authority of India
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Date	July 2, 2018

Dear Sir,

This is in reference to the Consultation Paper released by the Airport Economic Regulatory Authority (AERA) for the 2nd Control Period tariff determination for Kempegowda International Airport (KIA) vide No. 05/2018-19.

We have keenly followed the tremendous growth in the Indian aviation sector and have participated in this growth by acquiring stake in Bangalore International Airport Limited(BIAL). As a stakeholder in the Indian aviation market, we understand the importance of attracting substantial investment to the airports. This is also underlined by the fact that India will be the third largest aviation market in the world by 2030 and creation of new capacity along with modernization and upgradation of the existing airports would be vital.

The government's thrust on sectoral growth is evident from the various measures and policies being promulgated to match the increasing demand for air travel by the rising middle class.

In line with civil aviation growth in the country, Bangalore International Airport is experiencing high growth in traffic and we are now 3rd largest airport in the country. BIAL is in the midst of huge expansion plans consisting of mainly Airfield projects for 2nd Runway, Taxiways, Apron, Terminal T2 and other associated projects. A Capital outlay of around Rs. 11,000 Crores is estimated for the future expansion projects and we have made considerable progress in execution of these projects.

Despite the positive intents of the government and the regulatory authority in terms of progressive policies and approach, the experience of investors in airport sector in India have been mixed. We believe that the sector could not attract the requisite private investments in airport projects as compared to the growth potential on account of policy and regulatory uncertainties. This is mainly due to inconsistent approach by Ministry in terms of implementing the provisions of Concession Agreement differently amongst the similarly place airports and also due to inconsistent approach by AERA in their Consultation papers issued for various airports

In order to attract the requisite sum of investments and to ensure that the sector is poised towards a compelling future, AERA would need to improve the viability of airport projects and bring clarity and consistency in the application of regulation. The provisions of the CAs should be held sacrosanct as the investor confidence is highly dependent on such an approach.

In this regard, kindly refer the CP issued for Bangalore International Airport tariff determination. We would like to make the following submissions with respect to certain major proposals in the CP that will impact significantly the performance of the Airport and in particular will constrain the Airport in proceeding with capacity enhancement initiatives.

Treatment of Cargo, Ground handling & Fuel farm revenues and income from Non-Airport activities:
Certain proposals of the Authority's Consultation Paper No. 05/2018-19 are contrary to the CA of the Bangalore International Airport. The Concession provides that regulated charges would include landing, parking, housing, PSF and UDF charges. Accordingly, cargo, ground handling and fuel farms services & corresponding charges which come under "Other Charges" are not part of regulated and therefore treated as non-aeronautical charges.

Further, real estate activity such as hotels, commercial complexes etc. are defined under "non-airport" activities in the CA. The CA and other project related agreements clearly provides the principles wherein the operator could continue with "non-airport" activities beyond the concession period. Hence, the "non-airport" activities & corresponding income / losses needs to be kept outside the purview of Till mechanism.

We hereby request AERA to consider the similar treatment as provided in case of Mumbai and Delhi airports, to consider CGF revenues as non-aeronautical revenues which determining tariff for Bangalore airport.

30% Shared Revenue till not applied in case of BIAL
The Regulatory Till adopted by AERA as against the Till mechanism provided in the Concession Agreement is different wherein tariff regulation was envisaged for "Regulated Charges" consisting of landing, housing and parking, passenger service fee and user development fee. Further, there is no provision in the Concession Agreement to consider any cross-subsidization from other revenues for determination of Regulated Charges clearly implying Dual till approach.

Inspite of the above, we accepted that 30% Shared Revenue Till (SRT) as a workable solution and represented to Ministry and AERA. Initially Ministry recommended 40% SRT for BIAL. However, later the Ministry recommended 30% SRT as a policy directive for Hyderabad airport with retrospective effect.

Given that Bangalore and Hyderabad have similar Concession Agreement, we request AERA to consider similar treatment for Bangalore.

Pre-Control period losses not considered for tariff determination
A letter from The Ministry (ref: AV 200015/003/2003-AAI dated 03.04.2008) to BIAL mentions that the UDFs approved by The Ministry upon opening of the airport were determined on ad-hoc basis and that a final decision in that regard was yet to be taken. The letter also states that the tariffs were interim in nature and would be finalized at a later date as per the Guidelines of the Ministry and the Concession Agreement.

However, the AERA proposes to compute Pre-control period shortfall/ over recovery of revenues from the period the AERA has jurisdiction (September 2009) and not to consider the pre – airport Opening Date losses and losses incurred prior to September 2009. As per the AERA, it does not have jurisdiction to regulate over a period prior to the date the powers under Chapter 3 of the AERA Act 2008 were notified.

In the case of Major Airports in India, including BIAL, as mandated by law, aeronautical tariffs are to be regulated and an airport operator cannot suo moto adjust / increase its tariffs – even to recover any losses. In these circumstances, non-consideration of such losses incurred by Authority, would lead to BIAL bearing these losses - which is against basic principles of economic regulation regime in the country. We request the AERA to consider pre control period losses for tariff determination.

Treatment of Real Estate not as per Concession Agreement
As part of the bidding process in order to attract potential investors, certain incentives were provided in BIAL Concession Agreement. The project Agreement consisting of land Lease deed, allows the utilization of land for airport activities and non-airport activities. The non-airport activities refer to Hotel, commercial building, SEZ which are in real estate realm and not connected with airport business. The recent Consultation paper proposes cross-subsidization from Real estate which was not in line with the provision of project Agreement. Any dilution of commitments as provided in the project agreements will severely affect the investments in the project.

Given the provision of the Concession Agreement regarding the non-airport activities, AERA should keep these activities outside the purview of any regulation and the same should not be considered as part of regulatory till.

Requirement of adequate returns in airport project:
The success of PPP to a large extent depends on optimal risk allocation amongst stakeholders, robust enabling ecosystem, sound regulatory and arbitration framework to ensure smooth implementation of projects. It is important to note that the Concession Agreement has elements to protect the economic interest of shareholders and lenders investing in the airport project. The shareholders/lenders committed their investment based on the financial model which reflected an internal rate of return of 21.66%. The Regulatory approach of providing 16% return on equity investments in aeronautical assets

has translated into an even lower return on equity which does not reflect the risks involved and the high uncertainty in these projects.

We request the AERA to look at allowing reasonable returns, based on Capital Asset Pricing models and prescribe a fair rate of return to the airport investors.

Consideration of funding requirements towards Future expansion projects and request to consider and include various capex requirements as submitted:
The current consultation paper proposal on tariff and capital expenditure show a negative cash flow and results in cash flow gap of approx. Rs. 1,489 Crores. It is important to bring to attention that the 92% of the internal generation of BIAL has been reinvested to build, enhance and renew the Bengaluru airport capacity to handle the increasing demand of passenger and cargo growth.

It is pertinent to note that the government shareholders of BIAL, both AAI and GoK have informed earlier that they will not be able to infuse additional equity in BIAL. As per provisions of Share Holders Agreement, the total equity holding of AAI and GoK together should be 26% and no dilution is possible. Based on the above, in 64th Board Meeting of BIAL held on 16.05.2013 it was resolved that none of the promoters would be in a position to infuse further equity into the project. Having no recourse to infuse further equity, financing the airport expansion project during the 2nd Control Period poses a massive challenge.

The existing loan terms entered with SBI requires BIAL to maintain certain minimum financial covenants including (i) interest coverage ratio, (ii) debt service coverage ratio and (iii) fixed asset coverage ratio each of 1.25. Based on the Authority's business plan, BIAL would default in meeting these financial covenants which could lead to penal interests and re-pricing of BIAL's debts and BIAL will not be in a position to go ahead with finance closure for the future expansion projects.

Any delay or deferment of the expansion to the 3rd Control Period would result in stagnation and choking of the airport due to capacity constraints. Hence, it is sincerely requested that the Authority may consider allowing BIAL its existing tariffs over the remaining period of the 2nd Control Period. The surplus tariffs allowed to BIAL over the period could be clawed back at the time of the 3rd Control Period on a net present value basis. Such an approach would also result in terms of smoothening of tariffs across the regulatory periods and thereby reducing the tariff shocks to end users.

Further we also request AERA to consider the capex estimates as submitted by the BIAL and not to exclude any Capex investment. Such an approach is a need of the day in the present situation where we are in a pressing need to create significant capacity at Airport.

We would be happy to provide any further information / clarification as and when required by the Authority.

Sincerely,

Siemens Project Ventures GMBH

Roger Ernst
(Managing Director)

Klaus Kolof
(Managing Director)