



Secretary General &lt;sg@apai.in&gt;

## Comments on Consultation paper no -1 of 2016

Sudhakara Reddy <dsreddy@air-passenger.com>  
To: chairperson@aera.gov.in  
Cc: puja.jindal@nic.in

Tue, Nov 15, 2016 at 4:12 PM



## Air Passengers Association of India

### *APAI Representation before AERA*

At the outset, APAI feels that the air passenger community, because of the very monopolistic character of the Indian airports, are over burdened and any additional tax or levy imposed on the aviation sector is finally going to be passed on to the ultimate consumers, that is the *Air Passengers*.

Going by the prognostication of the various international agencies, India's aviation sector will become the third largest in the world, creating in its wake large employment opportunities and catalyzing overall development of the country and its economy. To ensure this, APAI feels that AERA has to play a strong regulatory role exercising the powers vested with it. It is not an adjunct of the government but a body entitled to take its own independent decisions based on facts, reasoned arguments and empirical evidences presented to it in an objective manner.

APAI feels that the air passengers are the most important link in the aviation landscape since he/she is the ultimate beneficiary and sufferer on account of policies, since other stakeholders including the airlines will shift, every burden on them. The organization has extensively done the research to find out how, inflated passenger taxes, had adversely affected the flow of traffic of various airports across the world. For instance, the airports in London are losing their passenger traffic to other countries on account of the hefty increases in its passenger taxes(Highest in the World) over the last two decades .

There are many studies both in India and abroad, which conclusively prove with the support of empirical evidence that airport charges have gone up in the recent years several fold. Airline for Europe (A4E), new and largest airline association has recently conducted a study, which has brought out some revealing statistics. Since the introduction of Air Passenger Duty (APD) in Britain in 1994 to boost British tourism and economy, the passengers have paid 31 billion Pounds till 2015 ( for 21 years), an increase of around 824% as against the prevailing tax in 1994. The study also revealed that the UK has the highest aviation tax worldwide, putting it at a competitive disadvantage as other European hubs take traffic and business away from the UK.

Let us look at another example. The Dutch government's removal of its ticket tax in 2009 led to strong growth in passenger traffic and made Schiphol a successful international hub. The study also points out that the abolition of its traffic tax in 2014, the Irish government has managed to get an 8% increase in tourism in 2015.

The number of passengers flying from Dublin airport in Northern Ireland to other destinations increased by 52% in 2015, thanks to the scrapping of the tax. Countries like Italy and Scotland are putting on hold increase in airport taxes, on account the adverse impact on the passenger traffic in the neighboring countries.

On the other hand, the Norwegian Government's decision to increase Air Passenger Tax on departing passengers for both domestic and international flights is already showing harmful effects with reduced frequencies and lower passenger demand on select regional and international routes in the first two months after the tax was implemented.

APAI feels that experiences of other airports have to be closely examined while steps are being undertaken to align the AERA guidelines with the NCAP 2016. The intention of the government as mentioned through various policy guidelines is to develop the vast network of Indian international and domestic airports, helipads, aerodromes etc into a "hub and spoke" scheme wherein major airports in metros will be converted into hubs and the regional airports into spokes, which the government believes will catalyze India into the third largest aviation industry in the world in the coming ten years .

### ***Limitations***

Pragmatic policy is the critical need for unbundling the aviation potential of the country. Lop-sided policies, ad hoc measures etc will defeat the purpose. Many believe that the continental size of our country coupled with its geographical spread and strategic position will work in favor, to ***make India*** an aviation hub. But, there can be competition from airports in Sri Lanka and Maldives, which can act as hubs for passengers bound to airports in southern cities of India. Similarly, countries like Bangladesh, Nepal, Bhutan and Pakistan can disrupt the passenger flow into the airports in North India. The case in point is the preference shown by the passengers flying into Europe and beyond. The traditional hub of Europe -London airports- lost considerable number of passenger traffic to the airports in France, Germany, Netherlands etc on account of the higher passenger duty/taxes levied by the airports there. This clearly brings about the need for fixing airport charges optimally and with great care.

### ***Dynamics of Airport Operations and Charges***

The airport revenue streams can be broadly divided into two in India viz. Aeronautical and non -aeronautical revenue. These two play an important role in deciding the fixation of the airport charges in a given point of time and place. ***Aeronautical Revenue*** includes Passenger Service Fee (PSF) and User Development Fee (UDF). Both these fees are collected by the airline operators as a part of passenger fare and passed on to the airport operators. While PSF is regulated by MOCA , The UDF is regulated by AERA and are utilized towards expenses like facilitation and security.

The user development fee is used towards development, management, maintenance, operation and expansion of the airports.

Besides these, there are other aeronautical charges like landing fee, parking charges, which are collected by the airlines and ultimately passed on to the passengers. There are mechanisms created for deciding the flow of revenues to the Airports under these streams and are regulated by AERA .

***Non-aeronautical Revenues*** decides the viability of the business model that governs the entry of private sector in the airport sector. These revenue streams include cargo, fuel, retail, food and



beverages, advertising, taxi, vehicle parking, lounges and other business activities connected with airlines and airport operations. The regulator holds discussions with the airlines, airports and other stakeholders like air passenger associations/consumer bodies etc, while fixing the fee towards each of these activities. The basic principle underlying is that the civil aviation business is not only about “air ticket and in-flight” revenues but the airports will be able to participate in commercial revenues generated from non-aeronautical fee stream while determining the aeronautical fee. In economic parlance, it is aimed at cross subsidization of passenger fee from the revenues realized from non-aeronautical operations as well. There are similar examples in deciding the tariff structures of other utilities like railways, electricity, water etc, where revenues from one stream is used for cross subsidizing the other.

The time tested tariff mechanism adopted across the world is a “Single Till” mechanism, which only means that non-aeronautical revenues are used to subsidize aeronautical charges. Under this dispensation, the fee collected from the passenger under PSF and UDF are the minimum and the interests of all stakeholders like airlines, airport operators and others are balanced and protected.

With the introduction of concessionaire concept in the operation of airports, various “clones” of TILL have come into operation, such as “Dual TILL and Hybrid TILL”. APAI is of the considered view that these variants of the TILL are basically tuned to enhance the profiteering and are heavily loaded in favour of the airport operators, who are not missing any opportunity to make a “killing” in the bargain due to their monopolistic character.

### ***TILL is a ‘Consensus’ and ‘Not an Imposition’ from the Top***

A peep into the rationale underlying fixation of tariff under the TILL system reveals that considerable academic research and consultations have gone into its evolution and fixation of tariff at various points of time. AERA was set up as an independent regulator primarily to blend the interests of various stakeholders while fixing the tariff. There are terms of references for AERA to grapple with and hammer out a consensus with informed consultations among the stakeholders. Only matters, related to the fixation of tariff and related issues come under the purview of the regulator. Expanding the scope of AERA needs detailed study supported by empirical facts, discussion and a consensus.

### ***In this context, APAI would like to point out the following for consideration of AERA:***

- The regulatory policy of AERA has been formulated after considerable consultation process among the stakeholders taking academic and other inputs and backed by empirical studies, expert opinions etc.

Before arriving at the universally well accepted “Single TILL” methodology of fixation of tariff, AERA along with its stakeholders discussed threadbare three sets of consultation papers before arriving at a consensus. APAI feels that the Single TILL is the most appropriate and internationally accepted formula, since it blends the interests of all stakeholders in a harmonious manner. **The following may pl be noted .**

1. Lack of any compelling evidence that would justify moving away from AERA's previous decision to regulate under a Single till mechanism The Order No 13/2010-11 stated AERA's decisions on its regulatory philosophy towards the setting of charges. - Important to note that the order itself was the result of a thorough examination of different stakeholder views, through an extensive consultation process of its proposals o there was the 89 page White Paper No 01/2009-10 and o that was further followed by the 279 page long consultation

paper No 3/2009-10 - Thereafter through its 73 page long well-reasoned Order No 13, AERA determined that it would apply the Single TILL mechanism for setting charges. -

***The overriding reasons for the Authority to arrive at this decision were:***

- a) There is a persuasive case for non-aeronautical revenues to be taken into consideration for fixation of aeronautical tariffs since the revenue flows from the former can help subsidize the latter, as envisaged in the Single TILL dispensation
- b) A Single TILL approach protects interests of users by ensuring service provisions are commensurate with the respective tariff and
- c) Single TILL approach takes all airport assets and costs into account thus avoiding complications relating to cost allocations.

***Level Playing Argument "A Myth"***

NCAP 2016 in its argument to adopt a "Hybrid TILL" approach mentions that it is to ensure uniformity and a level playing field across various (airport) operators". APAI fails to appreciate the argument of "level playing field" in the context of airports in India. There cannot be a level playing field argument for two reasons. One, each airport in India is at variance with the other in terms of its revenue generating capacity, facilities offered, number of flights operating and importantly passenger handling facilities. Introduction of Hybrid TILL to ensure level playing field is therefore a myth and an unacceptable mechanism .

***Airports covered under Section 12 of the NCAP 2016***

Section 12 of the NCAP specifically addresses "Airports developed by State Governments, Private sector or in PPP mode" with the exclusion of airports developed by the Airport Authority of India (AAI).

This is addressed independently in Section 13 of the NCAP-2016. This means that by its very nature and operation, airports developed by state governments, private sector or in PPP mode are different from airports developed by AAI .

But the treatment given to these two legal entities is the same in the AERA order by applying the Hybrid TILL mechanism for tariff fixation and there is a major anomaly in the same .

There is an overwhelming opinion that airports created by AAI should remain under the purview of ***Single TILL*** and if the government wants to align AERA guidelines with NCAP 2016, they should do it uniformly for airports either the government, private sector or under PPP mode. However, APAI feels that lack of uniformity in the policy structure will go against the spirit for which it is being introduced and strongly feel that Single TILL is the most advantageous mechanism for all stakeholders



### *Empirical Evidence for Continuation of 'Single TILL'*

There is evidence collated from Indian airports, which clearly proves how Single TILL model is advantageous in the Indian context in terms of ensuring affordability and thus throwing open air travel to the common man as envisaged as the goal of NCAP 2016. In the case of Hyderabad airport, AERA in 2014 fixed tariff on the basis of Single TILL and charged User Development Fee (UDF) at zero level. Even in that dispensation, the airport operator achieved its targeted Annual Revenue Requirement (ARR) as empirically proved by the government prosecutor who argued against the airport operator for his plea to switch over to Hybrid TILL. It is a different matter that in the litigation that followed, the government lawyer omitted that argument in the subsequent hearings.

### Inconsistencies in NCAP

If AERA wants to adjudicate on aligning AERA guidelines with NCAP 2016, it should at least analyze the policy in its entirety and treat the government proposition as a suggestion and not a binding one to follow. Any move to toe in line with the government fiat will erode its independence and undermine its role as an independent regulator. As a stakeholder, the government has the right to give its views and opinions on several issues discussed from time to time under the purview of AERA. But such comments should be treated at par with the comments received from other stakeholders. Inconsistencies in the NCAP itself, We see that AERA is elaborating its proposals to shift to hybrid till on the basis of paragraph 12c of the NCAP. However, 12c is at odds with paragraph 12a of the same policy, which reads: "MoCA will coordinate with AERA, AAI, airlines, airport operators and stakeholders like cargo, MRO, ground handling, etc to identify ways to bring down airport charges, while abiding by the provisions of concession agreements and contracts." So, while para 12(a) proposes to find ways to bring down charges, para 12 (c) proposes to increase them by implementing hybrid till for non-AAI airports. If AERA intends to use the NCAP as the basis for adjusting its regulatory framework (which it shouldn't in the first place, as it should solely base its decisions on robust and independent analysis), AERA should at least analyze the policy in its entirety (and not just para 12 c), and challenge the fact that the Government Policy is in itself inconsistent.

It is the considered view of APAI to consider the suggestion of the government to align NACP 2016 with AERA guidelines as suggestions from the government and not mandatory orders. It may be pointed out that that AERA had exercised this regulatory power in several cases in the past and arrived at reasoned decisions. A case in point is the Bangalore airport. In the case of Bangalore airport, as against the plea of limiting the Shared TILL to 30%, AERA arrived at a reasoned decision to allow a 30% shared revenue TILL. AERA took the decision on the ground that it would allow the operator to mobilize additional resources to fund its terminal expansion.

An independent regulator like AERA is much needed in India due to the monopolistic environment that airports operate in. The possibility of an airport operator abusing its dominant position to extract high and unreasonable return is very likely in the absence of AERA's continued oversight.

\*\*\*

Sudhakar Reddy .D

Founder & National President

Air Passengers Association of India

044-42111612

Chennai

[www.apai.in](http://www.apai.in)



image001.jpg  
4K