

November 14, 2016

The Secretary,
Airports Economic Regulatory Authority of India,
AERA Building,
Administrative Complex,
Safdarjung Airport,
New Delhi – 110 003

Ref: Consultation Paper No. 01/2016-17

**Subject: Reply to Consultation paper in respect to aligning certain aspects of AERA's
Regulatory Approach with the Provisions of the National Civil Aviation Policy -
2016**

Dear Sir,

We acknowledge the receipt of above consultation paper from AERA. We have also attended the stakeholder consultation meeting conducted by AERA on 08 November 2016.

Please find below our submission on the said consultation paper:

1. One of the stated objectives of the National Civil Aviation Policy (NCAP) 2016 is to make flying affordable to the masses and to find ways to bring down airport charges. Imposition of the Hybrid Till will increase airport charges substantially across all airports and will become a barrier to achieve the said objective.
2. There is lack of any compelling evidence that would justify moving away from AERA's previous decision to regulate under a Single Till mechanism. AERA, through its Order No.13/2010-11 dated 12.01.2011 regarding Regulatory Philosophy and Approach in Economic Regulation of Airport Operators, adopted the Single Till regulatory regime for major airports other than Delhi and Mumbai. The said order is result of a thorough examination of various stakeholders' views, through an extensive consultation process of its proposals. The said order was based on the rationale that for any given airport under single till mechanism the airport charges are the lowest and therefore it is



beneficial to the customers. Presently, we don't perceive any reason for AERA to deviate from its own rationale. We strongly believe that if AERA were to consider shifting from its established regulatory philosophy it would need to justify why its previous conclusions were wrong.

3. NCAP is recommending adoption of the Hybrid Till approach 'to ensure uniformity and a level playing field across various operators'. The clause in the NCAP appears to protect the financial interest of airport owners to the detriment of users. This is not consistent with AERA's philosophy to protect the interest of all airport users. By implementing the Hybrid Till, AERA will allow airports to increase their level of charges while earning excessive returns.
4. Section 12 of the NCAP specifically addresses 'Airports developed by State Governments, Private Sector or in PPP mode'. Thus this clearly excludes AAI airports, which are addressed independently in section 13. However, AERA is proposing regulatory change from Single Till to Hybrid Till for all Airports, including the ones managed by AAI. If the NCAP is not advocating a shift to the Hybrid Till approach for airports managed by the AAI, then why is AERA doing so, when the stated objective was to align with the provisions of the NCAP? Such a move would overreach the stated objectives of AERA.
5. AERA is an independent regulatory authority established under Airports Economic Regulatory Authority of India Act, 2008, and must exercise its unbiased independence to protect the interest of all users, and not be led by any directive that impinges on its stated philosophy. There is no reason for AERA to follow the Government advice if it should be found to be to the detriment of all users, unless the same was given as Order under Clause 42 of the Act. The Government has given its comments under NCAP, and there is no reason for AERA to concede to these comments without applying its own unbiased decision after analysis of all the facts. Conceding to government advice without due process would be against the principles of the constitution of AERA. As an independent regulator, we request AERA to apply its own mind in deciding the regulatory till applicable to airport rather than conceding to advice.



6. In India, Airports operates in a monopolistic environment. 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. Changing the regulatory approach to Hybrid Till will set an undesirable precedent for Government to influence the independence of the regulator.

7. The NCAP is a guiding document in relation to Government future decisions, and is therefore not a law unto itself. We note that AERA has acknowledged in its consultation document that no direction has been provided to AERA under Clause 42 of the AERA Act, 2008. In such a situation, there is no reason for AERA to depart from its already well justified principles.

8. We request AERA to examine the various stake sales of private airports like BIAL and news report related to the stake sale in MIAL. Existing investors have offloaded their stakes at a huge premium and many new prominent investors have shown an interest to in acquiring airport assets. This clearly proves that the belief that new investments in airports would suffer without a change in the regulatory approach to a Hybrid Till is a myth.

In conclusion, we do not see any compelling reason for AERA to deviate from its original regulatory approach. If AERA were to consider shifting from its established Regulatory philosophy, then it would need to strongly justify why its previous conclusions were wrong. So far, no compelling reasons have been provided for such a change.

Thanking you,

For Blue Dart Aviation Limited,

A handwritten signature in blue ink that reads "N. Palaniappan".

N.Palaniappan

Company Secretary & Sr.Manager-Finance

