

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

Madam,

Sub: In the matter of aligning certain aspects of AERA's Regulatory Approach with the provisions of the National Civil Aviation Policy 2016 (NCAP-2016) approved by the Government of India.

Ref: Consultation Paper No.01/2016-17 dated 5th October, 2016 issued by the Authority

We would like to thank the Authority for giving us an opportunity to provide our comments on the above referred Consultation Paper.

MIAL welcomes the Authority's proposal regarding adoption of Hybrid Till for determination of aeronautical tariffs for Airport Operators, in line with the National Civil Aviation Policy –2016 (NCAP – 2016), which is a step in the right direction. We also note from the Consultation Paper that the new criteria for Competition Assessment for Ground Handling service providers require the airport operators at all Major Airports, to have presence of three Ground Handling Agencies (GHA) including Air India's subsidiary / JV to ensure fair competition.

We have perused the Consultation Paper issued by the Authority and in this regard our comments are as follows:

1. Determination of aeronautical tariffs for Mumbai & Delhi airports are already being done by the Authority in terms of their respective Concession Agreements on Hybrid Till basis. True up for both the airports for the 1st Control Period has also been done by the Authority on Hybrid Till basis in accordance with the provisions of the respective Concession Agreements. We request Authority to mention the fact that tariff determination in respect of Mumbai and Delhi airports shall continue to be done on Hybrid Till basis in terms of their respective concession agreements i.e. OMDA & SSA, clearly in its Order to avoid any ambiguity/misunderstanding in this respect.
2. National Civil Aviation Policy 2016 of the Ministry of Civil Aviation, Govt. of India requires presence of three Ground Handling Agencies including Air India's subsidiary / JV at all the Major Airports to ensure fair competition. Para 3.4 of the Consultation Paper mentions that because of change in Government's policy on provision of Ground Handling services, approach of AERA for Competition Assessment also need revision. We wish to bring it to the notice of the Authority that there is no change in the policy of the Govt. of India as far as the requirement of number of Ground Handling Agencies are concerned at any airport. Please refer Note to para 2 (A) of the earlier Ground Handling policy issued by DGCA through AIC no. 3/2010 dated 02.06.2010 (copy attached) which provided as follows:

"A minimum of two ground handling service providers shall be authorized at these airports in addition to the subsidiaries of National Aviation Company of India Ltd." – Which implies minimum of three such service providers.



3. From the above, it is clear that there is no change in the number of Ground Handling Agencies required at any airport for provision of Ground Handling services between old and new policy in respect of Ground Handling of the Govt. of India. It is important to note that while finalising criteria for Competition Assessment in year 2011, Authority was cognizant of the fact of requirement of three agencies as per Govt. policy and despite that decided to keep requirement of only two or more agencies for assessment of fair competition. Extract of the Guidelines issued by the Authority in this respect is reproduced below:

“Airports Economic Regulatory Authority of India (Terms and Conditions for Determination of Tariff for Services provided for Cargo facility, Ground Handling and supply of Fuel to the Aircraft) Guidelines, 2011 issued on 10.01.2011:

“5.1. Competition Assessment

5.1. Where a Regulated Service is being provided at a major airport by two or more Service Provider(s), it shall be deemed 'competitive' at that airport. If a Regulated Service is provided by less than two Service Provider(s), it shall be deemed 'not competitive':

Provided that the Authority may in its discretion consider such other additional evidence regarding reasonableness of competition, as it may deem fit.

Explanation: For avoidance of any doubt, the determination of number of Service Provider(s) at a major airport shall include the Airport Operator, if the Airport Operator is also providing Regulated Service(s) at that major airport.”

4. It is also important to note that while Airport Operator can ensure appointment of two agencies it cannot force Air India’s subsidiary / JV to be present at each of the Major Airport since it is a business decision of that subsidiary / JV as whether to offer Ground Handling services at that particular airport or not and therefore Airport Operator cannot ensure presence of Air India subsidiary /JV at each of the Major Airport.
5. In view of the above, we are of the opinion that existing guidelines regarding Competition Assessment are adequate enough and do not warrant any increase in minimum number of Ground Handling Agencies as otherwise also it is beyond control of an Airport Operator to force Air India subsidiary / JV to provide Ground Handling services at a particular airport unless it is found viable by them.

We hope Authority would take into consideration our comments and make suitable changes while finalising its Order in respect of the proposals contained in the Consultation Paper no.1/2016-17 dated 5.10.2016.

Thanking you,

Yours Sincerely,

For Mumbai International Airport Private Limited



Vinod Hiran

Executive Vice President (Finance)

