Dated : 10th May, 2017

To

The Secretary,
Airports Economic Regulatory Authority of India,
AERA Building, Administrative Complex,
Safdarjung Airport, New Delhi – 110003.

Respected Madam,

We refer to your consultation paper 8/2016-17 issued on the subject of "Capping the percentage of Royalty / Revenue Share payable to Airport Operator as a "Pass Through" Expenditure for the Independent Service Providers providing Cargo facility, Ground Handling and Supply of Fuel to the Aircraft at Major Airports.''

We welcome your view on the proposal on the capping the percentage of Royalty / Revenue share payable to Airport Operator by ISP as a pass through expenditure, however we would like to share our observation and suggestion on the subject matter:

1. The revenue share paid by the ISP is in accordance with the agreements signed by the ISP with respective Airport Operators. ISPs obtain their right to conduct business through competitive bidding and the highest bidder bags the contract. Therefore, it is obvious that the Revenue Share / Royalty paid are in accordance with the market valuations and represent a fair cost of the opportunity that the market offers.

2. Contrary to what has been stated by the Authority in para 2.2 of the consultation paper that "the rates charged for services do not seem to be commensurate with the cost or quality of service provided" - it is affirmed that that the quality of services that ISPs render are at agreed levels between them and their clients. It is emphasized that ISPs do not compromise with their quality of services even if their profitability levels are not adequate.

3. It is affirmed that Revenue Share / Royalty is a bona-fide cost incurred by the ISPs which enables them to acquire the opportunity to conduct his business at various Airports. It is obvious that an ISP cannot set up a service facility in any part of the city other than the Airport premises. Therefore, ISPs use the opportunity at the airport to do their business for which they pay Revenue Share / Royalty.

4. AAI have entered into an Operation, Management and Development Agreement (OMDA) with Delhi & Mumbai Airport Operators and similarly with other Greenfield Airports, under which Airport Operator have further signed Concession Agreement with ISP's. These are

essentially Concession Agreements which are either BOT or O&M contracts for a fixed long tenure. Looking at it the other way it may not be wrong to say that an ISP is essentially a financier of the asset under concession. The ISPs do not get any title to the asset and, therefore, they not only have to recover their invested capital but also earn a reasonable return on their investment. The ISPs are, therefore, entitled to a fair return on their capital investment that ensures them a recovery of their capital along with a reasonable return on their investment. ISPs cannot be expected to forego any part of their reasonable return or their investment.

5. While it is laudable on the part of AERA to propose an upper limit to the revenue share that an Airport Operator should charge from an ISP it will be gross injustice to the ISP to expect them to forgo any part of their bona-fide expenditure incurred in course of their business. If at all any such limit should be placed on such expenditure then it should not be done without calling upon the Airport Operators to reduce the Revenue Share / Royalty by such percentage as the Authority deems is above the reasonable threshold.

6. By limiting the Revenue Share / Royalty to a certain percentage, which is below the actual percentage of Revenue Share / Royalty, for determining the bona-fide costs of an ISP, the Authority is infringing upon the right of an ISP to earn a reasonable return on his investment along with the recovery of its capital.

7. It is, therefore, suggested that Government of India should be urged to put an upper limit, by means of a legislative process, on Revenue Share / Royalty that are charged by Airport Operators from the ISPs for all the future contracts.

8. We further suggest that the existing contracts should be allowed as “Pass Through cost for determination of tariff” until its tenure as these existing contracts are already signed for long terms basis and cannot be renegotiated, some of the contracts are signed with Govt. of India.

Yours Sincerely,

For **Air Cargo Handlers Association of India**

Tushar Jani

**Tushar Jani**
**Chairman**