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Secretary General

Air Passengers Association of India

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APAI Response to AERA

in the Matter 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

Dear Sir,

Thank you very much for inviting Air Passengers Association of India (APAI) to the Stakeholders Consultative Meeting in respect of "APAI Response to AERA in the Matter 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"

In this regard, we are sending herewith our response for your perusal.

Thanking you,

Yours faithfully,



(Dr Mahesh Y Reddy)

Chairperson

Airports Economic Regulatory Authority of India (AERA)
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New Delhi- 110 003

Enclosure:

1. APAI Response to AERA in the Matter 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

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Air Passengers Association of India

APAI Response to AERA

in the Matter 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

Ground Handling Services (GH) is deemed as the right of each airport operator. While a handful of airports such as Mumbai, Delhi, Hyderabad, Bengaluru etc. are run by private operators, most others are operated by central government owned Airport Authority of India (AAI). In such airports run by private operator under the PPP, there is a tendency among the operator to charge exorbitant royalty or revenue sharing from the independent service providers (ISPs) on the plea that the operating cost of business in airports is very high.

The passenger community has been adversely affected by this arbitrary charge being levied by the airport operators from the ISPs in two ways. One, having to part with higher royalty, a euphemism for sharing revenues earned by the ISPs by the airport operator, ISPs pass on that burden to the consumers (passengers). Two, such passed on revenue to the airport operator airport operator seldom result in lower airport charges. Airports are mandated to pass on benefits of such income accruals while deciding the airport charges to the passengers. Our experience is that such charges seldom get reflected properly in the in the income and expenditure statements of the airports. There is a maze of ways in which such things can escape a transparent scrutiny. Accounting practises like allowances for depreciation etc can be used to a great extent to hide accruals of income through royalty. The result is that the ultimate consumer end up in paying for the services of ISDs and do not get any relief in computing airport charges, levied by the airport operator. That way, it is a double whammy penalization for the passenger community.

A look at the grievances expressed by the service provider and the counter given by the airport operator are worth examining in this regard. ISPs have been complaining that due to lack of any regulation, airport operators are charging unreasonably high royalty/ revenue share from the ISP, which are ultimately borne by end-users and leading to limiting the growth of the sector. On the other hand, airport operators assert that the ISPs are selected by open bids and they are aware of what they have to part with before bidding for the business. Also, they maintain that for keeping airport charges levied from the public, it is important to realize resources from various sources including royalty from ISPs, which is a common practice world-wide.

AERA's consultation paper seeks to cap the royalty to 30% of the gross turnover of the regulated service. This will be allowed as pass through for determining the tariff of the ISP. Wherever fresh contracts are to be entered, this ceiling will be taken into consideration. In the case of existing contracts between the ISP and airport operator, the actual fees/royalty/revenue share payable to airport operator will be allowed as Pass Through Cost up to 31st May 2019 for determination of tariff.

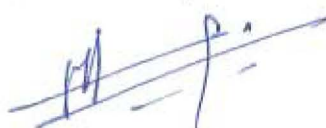
The considered view of APAI is that such nuances like revenue sharing, royalty etc have cropped up mostly on account of switching over the Hybrid Till method of computing airport fare for the airports which have been set up come the PPP model. Therefore, as a concept, hybrid till should be disbanded and single till should be the order rather than exception, where interests of the passengers are better protected.

While APAI feels that cap on royalty will help reining in airport operators from charging exorbitant rates in the absence of a cap, it is also instructive to measure on a real time basis whether the ISPs will pass on the benefits of lower rate of revenue sharing to the passengers.

Being the regulatory authority has to decide charges for aeronautical services at all public airports as per guidelines given in State Support Agreement (SSA). There is no provision of any royalty to be considered by AERA while deciding charges. 'Royalty' is a legacy of British India and used to be called 'Lagaan' during pre-partition times. Even the dictionary meaning of 'Royalty' disqualifies it to be part of costing at a 'public airport'. 'Royalty has been defined, in accounting terms, as 'payments made to someone whose invention, idea of 'property' is used. Therefore, at public airports charging royalty, over and above charges for aeronautical services, is illegal, unethical and akin to being an 'organised loot', in monopolistic situation, of common man in India travelling through medium of air. All operators, whether scheduled and 'non-scheduled' pass on these illegally charged amounts of 'royalty' to the common public, which is using air transportation as means to commute to save their time and better use their skills in more progressive way for growth of Indian economy.

For quite some time, there has been tussle going on between airport operators and the independent service providers regarding capping the percentage of royalty or sharing of revenue between them.

- In a scathing attack on such airport operators, AERA, in its consultation paper on the subject, said, "The rates charged for services do not seem to be commensurate with the cost or quality of service provided."
- AERA officials during their investigation found that the profitability of the ISP is low due to the high rate of royalty/license fee/revenue share, and this limits their capability to upgrade facilities and quality of service. Further, in a monopoly situation, there is no incentive to invest in expansion and modernisation of the facilities.
- AERA is considering allowing existing contracts between ISPs and airport operators to continue till May 31, 2019, after which they will have to be negotiated with 30% ceiling.



- The Indian aviation market is among the fastest-growing in the world. As per an IATA report released on Tuesday, India was a big mover in this year's rankings by jumping up two places to the No.4 ranking with 131 million departures in 2016, and with a stellar growth of 20% year on year continues to close in fast on Japan. Just three years ago, India was at the No.8 position. Similarly, the total air cargo at all Indian airports during 2016-17 (April 2016-February 2017) witnessed a growth rate of 9.3%, according to the AAI statistics.

"Since these charges are meant to acquire the right to do business in the airport, they do not have any relevance to costs incurred by an airport operator, and are therefore not consistent with the policies of International Civil Aviation Organization (ICAO) relating to tariff determination," the consultation paper said. ICAO is a UN-backed body tasked with monitoring and broadly regulating the overall civil aviation sector across the world.

We would like to draw the kind attention of 'Authority' to the variable royalties being charged as different 'GH' Agencies across public airports in India. Attached as Annex II & III.

Even AAI has region-wise variable rates of royalty at public airports operated by it. In case of 'public airports', operated under PPP model, AERA has so far given free run to airport operators to follow any model of own choice-'royalty' or 'revenue sharing'. And, this model is being allowed by AERA in addition to the 'rental or licence fee' for using the premises of 'airports for ground services that are part of aeronautical services, as defined in 'AERA Act'. The 'Act' makes it obligatory on part of AERA to fix charges of all aeronautical services at a public airport on 'cost plus basis' as provided in SSA, including independent services providers giving cargo facility and 'supply of fuel'.

Once the charges are fixed in a rational and 'cost plus' basis, allowing 14-15% return on investments, the airport operator at a public airport, whether, AAI or 'under PPP', should not be allowed to charge above the AERA's prescribed ceiling to the public. It may be left to the airport operator to provide there essential aeronautical services under own 'DGCA certified' arrangements or, thru accredited GH Agencies by any of the three - 'Revenue Sharing / 'Licence Fee' / 'Mixed Revenue sharing & Licence-Fee' mechanism. This is the only way AERA should be discharging its responsibilities to ensure Indian public pays reasonable and the right charges for all aeronautical services provided at public airports.

Conclusion

AERA should be complimented for bringing out the Consultation Paper 8/2016-17 as part of its public duty to ensure all aeronautical services at public airports are charged reasonably and on cost plus basis. No further time should be spent to correct the situation and, 'royalty', which is the legacy of British India, be abolished completely.

