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To  
**Shri S Machendranathan**  
Chairperson  
Airports Economic Regulatory Authority of India (AERA)  
AERA Building, Administrative Complex,  
Safdarjung Airport, New Delhi-110003

Dear Sir,

**Sub: Capping the Royalty / Revenue share payable to Airport Operator by ISP Reg:**

**Ref: AERA Consultation paper No 8/2016-17**

This has reference to your cited consultation paper, wherein you have invited feedback and suggestions from various stakeholders pertaining to the proposal of capping the percentage of Royalty / Revenue share payable to Airport operator as a pass through expenditure for the independent service provider facilitating cargo operations, Ground Handling and supply of fuel to the Aircraft at Major Airports.

In this regard Cochin International Airport Limited (CIAL) would like to offer the following comments

1. The Authority vide direction No. 04/2010-11 dated 10.01.2011 has issued guidelines in the matter of Regulatory Philosophy and Approach in Economic Regulation of the Services provided for Cargo Facility, Ground Handling and Supply of Fuel to the Aircraft at the major airports.

As per the above, the Authority would undertake a three stage process for the determining its regulatory approach.

- The Authority shall assess the materiality
- The Authority shall then assess the competition
- The Authority shall assess the reasonableness of the user agreements.

Based on the mentioned reviews, if the services are not material or material but competitive the tariff will be determined based on a light touch approach and if the services are material but not competitive, then the reasonableness of the existing user agreements will be evaluated and based on that a light touch or price cap approach would be fixed for the tariff determination process.



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It is not clear from the consultation paper that whether the capping of percentage of Royalty / Revenue share payable to Airport operator as a pass through expenditure will be applicable to all the three above mentioned categories or not. Till date, all the tariff determination process of ISP's were done on a light touch basis. Further, it is not clear from the consultation paper that price cap approach will now be made applicable to all three categories as outlined in the original approach by the authority.

2. Authority's observation that some of the airports are charging unreasonably high revenue share from ISP's is not factual. Airport Operators have not levied exorbitant charges on ISP's but all these revenue sharing percentage are quoted by ISP's in a competitive bidding process by fully considering their business dynamics and market potential. More over the so called higher royalties /revenue share received by the Airport operator is actually used to subsidize the aeronautical charges levied. Hence on account of the implicit cross subsidization as envisaged by the till regulation, the benefit of higher revenue share / royalty percentages are presently availed by the Airlines and Passenger community and no inordinate advantage is reaped by the airport operator.

In all the major airports aeronautical tariffs are regulated based on a till regime in which the rate of return is fixed and if the authority starts to regulate each line item of revenue from service recipient side also, it will result in redetermination of each tariff heads over and above the overall tariff determined for aeronautical services. Having determined the overall regulatory philosophy of Airport Tariff determination, the subsequent controlling of each revenue line item of the Airport operator from the hands of service recipient of services is unprecedented in any regulated or unregulated Industries in India.

3. Moreover the revenue share / Royalty payable by the ISP's to Airport operators are determined through a competitive bidding process. The relevance of the bidding process will be lost, if such a predetermined revenue share /royalty percentage has been fixed by the regulator. This will lead to the cartelization of these activities by a very few players existing in India. It may be noted that only a few ISP's exist in the field of Ground Handling, Cargo Handling and Fuel Farm .Therefore if an arbitrary predetermined royalty percentage is imposed on to the system, the entire competitive eco system will get disrupted and will culminate into a monopolistic/oligopolistic environment. This is against the spirit of National Civil Aviation policy and the declared position of Government of India



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to promote competition in these areas. This is also contrary to the approaches already followed by the AERA.

4. Another concern which the authority has mentioned in the cited consultation paper was that the profitability of ISP's are low due to the high revenue share / royalty payable by them to the Airport Operator and this act as a limiting factor for the ISP's to upgrade their quality of service. This premise is again factually incorrect. The ISP's are rendering their services in mainly three areas, i.e. Ground Handling, Cargo Handling and Fuel farm services. We do not subscribe to the argument that these ISP's are incurring losses or not able to upgrade their quality of service, only, on account of High royalty /revenue share payable to Airport operator. Moreover these expenses were all along a pass through for ISP's, hence question of incurring losses in the past period would not have arisen. All these three sectors have different business dynamics and cost structures contributing to their overall business performance and the assumption of increasing the overall business performance of ISP's based on regulating a single item of cost is inappropriate. More over adopting a single percentage cap for all these different sectors with varying revenue and cost structures itself is incorrect.

It is practically impossible to levy 30 % royalty /revenue share for fuel farm and cargo handling services and the reduction the royalty percentage of Ground handling activities will result in the pushing up the royalty percentages of the fuel farm and cargo handling services. Moreover, mere reduction of one element of cost will not benefit the users, since, cost have an inherent nature of settling into other items of cost when a single item of cost is regulated. These sort of arbitrary reductions in single items of cost will lead to deterioration of quality of service and will pave the way for the creation of monopolies in these sectors.

5. Another major assumption under which the consultation paper has relied upon is that these charges are meant to acquire right to do business in the airport and do not have any relevance to costs incurred by airport operator. This premise is very much erred. Any right to do business can only be given by somebody who creates a tangible or intangible assets, which itself is a very cost intensive proposition. We cannot infer that the Airport operator has not incurred any cost relating to the use of these assets. It is very difficult to quantify the cost on a per usage basis by which the ISP's provide services to their clients. Therefore in order to bridge the mismatch, a royalty /revenue share is arrived through a competitive bidding process. All these have linkages with cost and we feel that competitive process is the right method to discover the price of services rather than prescribing any



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arbitrary uniform percentage rates to all these services without considering the factors like nature, quality of service, competitiveness, relevance of cost and industry best practices.

in view of the above, we would earnestly urge the authority to reconsider the proposal of capping a single revenue / royalty share payable to Airport operator by ISP's and if at all the authority proposes to implement the proposals mentioned in the cited consultation paper, the following factors may specifically addressed to

- i. Existing agreements and instances where bidding process have been initiated, the cutoff date for allowing the existing /quoted , royalty / revenue share percentage as a pass through expenditure may be extended from 31.05.2019 to the currency of the contract.
- ii. Any renegotiation with ISP's in revenue sharing agreements already entered should not be insisted and existing agreements may be honored until the expiry of the agreement.
- iii. If at all the renegotiation is insisted for reducing the rate for one or two services such as ground handling and/or cargo, then the airport operator may be permitted to revise upward the revenue share/ royalty for other category of services such as fuel farm in order to protect the total revenue earned out of these three services. This will ensure that the other aeronautical charges such as landing, parking, UDF etc. are not affected.

Thanking You,

Yours Faithfully

  
V J Kurian  
Managing Director