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1 September 2010

Shri Sandeep Prakash,
Secretary,
Airports Economic Regulatory Authority of India
New Delhi 110003

Dear Shri Prakash,

Consultation Paper No.05/2010-11: Economic Regulation of Services Provided for Cargo Facility, Ground Handling and Supply of Fuel to the Aircraft

IATA would like to submit its comments with regard to economic regulation of services provided for cargo facility, ground handling and supply of fuel, as follows:

- Economic regulation of airport service providers is not a common international practice especially when lack of competition can usually be addressed by allowing more players to enter the market. Regulation of airport revenue derived from service providers is, on the other hand, relevant since the airport can exert its monopolistic power on these providers. Therefore IATA is in full agreement with AERA that such revenues should come under the airport's yield-cap.
- Unfortunately, the current AERA Act and guidelines have not specifically included another critical airport service, namely In-flight catering. If airport revenue from inflight catering continues to reside outside the yield-cap, the airport operator can exploit its monopoly power and impose unreasonably high concession fee.
- As there is cost to economic regulation, it should only be applied in situations where competition is absent or clearly lacking. Otherwise, unnecessary cost would be put on the industry.
- As a preliminary assessment, two or more players should be deemed as 'competitive' but the assessment should not stop there.
- The authority should carry out an exercise to solicit evidential inputs from industry stakeholders for markets with two or more players that are deemed to be 'not competitive'. Once this list has been established, it can still be revised as and when new evidence from stakeholders are received or changes in market conditions take place.

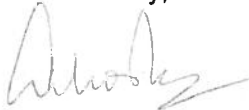
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- In the area of fuel supply, very often, control of key logistical fuel infrastructure by incumbent suppliers is the avenue used to keep out competition. To address this, for a fuel supply market to be deemed 'competitive', there should be the additional criterion that the market for supply of fuel to the airport is truly open i.e. a new supplier can readily enter the market and compete on a level playing field – paying the same pipeline fee, storage fee, hydrant fee etc. as the incumbents.
- The service providers should be cognizant that AERA can impose price cap regulation at any time during the 5-year regulatory cycle i.e. not having to wait until the next regulatory cycle. This threat of immediate imposition of intensive regulation should help to keep market players in line.
- Where competition is assessed as lacking and where the situation can be remedied by having additional players in the market, AERA should put a strong recommendation to the entities that have the power to improve the competitive landscape (e.g. airports, government ministries) to take corrective action to open up the market. This is bearing in mind that free market competition is a superior mechanism for deriving a market efficient outcome compared to regulation.
- For materiality assessment, if an airport is deemed to be material (assessed separately for passenger and cargo operations), the associated services at the airport should logically be material as well.
- The materiality index proposed makes materiality a moving target as it is affected by the relative growth rates of the major airports in the basket. As an example, the cargo services at an airport like Kolkata (with annual cargo volume of 106,585 MT in FY2009/10) is deemed material currently as it contributes 5.6% of total cargo volumes at major airports. If the following year, the volume increases to 110,000MT, it could drop below 5% contribution and be deemed 'not material' simply because the growth rates at the major airports are higher! A more logical indication of materiality would be to use an absolute figure e.g. 50,000 MT per year.
- A service that is deemed 'not material' at an airport could be exploited by a monopolistic entity leading to exorbitant rates that stifle the potential of the market to grow i.e. condemning the market to a longer than necessary duration in the 'not material' category. The appropriate approach should therefore be that as long as a monopoly exists, it should be subjected to price cap regulation.
- AERA should leave itself the option of stepping in to set service quality targets in situations where a comprehensive SLA could not be effectively negotiated e.g. in the case of monopolies. In such situations, price cap regulation without the appropriate service/productivity targets would not possess the necessary incentive for the regulated entity to improve.

Yours sincerely,



Amitabh Khosla
Country Director - India