

## **Comments on AERA's (Terms and Conditions for Determination of Tariff for Airport Operators) Guidelines, 2011**

Following inputs/submissions are received from select members of FICCI National Committee on Civil Aviation :

There is a need for greater private sector participation in the extensive infrastructure and service provisioning. AERA is requested to take a re-look at the proposed philosophy and suitably address the issues in a fair and balanced manner.

It would be useful to encourage the investment in the non-aeronautical facilities that fosters user's interest and not stifle the non-aeronautical ventures with heavy handed regulations and taking away all the incentives from the Indian airports would not meet the AERA objectives in long run. Further, the users of the airport should not be burdened with indeterminate risk of the non-aeronautical business.

Page	Item	Comments / Feedback
Chapter I		
7	3.2	Notwithstanding the right of the operator to request confidential treatment of submissions, the Authority should define in consultation with the stakeholders which kind of submissions could be considered commercially sensitive and hence should be treated as confidential.
Chapter II		
10	4.2	An important Regulatory Building Block component for the control period should also plan future investment for expansion, modernisation or meeting regulatory safety/security requirements. Securing of funds for future investments may have to be carried out during a control period even when investments fall into a subsequent control period. Airports must be allowed access to sufficient funds to finance the investments which are needed to meet projected demand. In some cases, pre-financing of airport infrastructure projects through raising airport charges during or before the period of construction is appropriate, in line with the guidelines set out in ICAO Doc. 9082.
15	5.2.1 (b) (iii)	The stakeholder consultation process should be defined by the Regulator in order to ensure due (and time bound) process.
29	5.3.3	Only a nominal minimal residual value (e.g. 1%) should be retained as replacement / revitalisation of the asset may be equally or more expensive than new construction.
31	5.6	Services carried out at the airport such as fuelling, ground and cargo handling etc. should only come under the purview of the regulator provided the airport operator carries out such services directly. These services are already regulated separately by AERA and should therefore not be considered twice.
Chapter III		
36	6.5	Efficiency may vary depending on many factors as pointed out by this clause. However, one important factor is congestion. As a facility becomes more congested efficiency will decrease. Countering the efficiency decrease will increase cost

Page	Item	Comments / Feedback
		disproportionately until additional capacity has been provided. Performance indicators should therefore be reflective of the capacity utilisation.
39	6.8.6	<p>ICAO's guidelines for aeronautical charging clearly require charging on a transparent, equitable and non-discriminatory basis. As a result, allocation of UDF charges on domestic and international passengers has to be based strictly on cost incurred per passenger. The Airport Operator will therefore need to identify the cost per passenger (domestic, transfer, international) on which the level of UDF should be based.</p> <p>Example if the cost per international passenger as a percentage of overall cost is 60% UDF should be allocated accordingly. As there is also a cost element to transfer passengers, UDF should also be charged to transfer passengers on the same principles.</p> <p>The distribution between airlines charges and UDF charges should be in following proportion:</p> <ul style="list-style-type: none"> <li>• Capital investment made for the facilities required for the airlines to operate from an airport should be recovered by airline charges.</li> <li>• Capital investment made for facilities directly used by the passengers should be recovered by UDF collection.</li> </ul> <p><i>The recovery of fair rate of return should be ensured to airport operator by collecting charges from the users for the facilities used by them directly.</i></p> <ul style="list-style-type: none"> <li>• Distribution between UDF collected from Domestic and International passengers should be such that the UDF collected from domestic passengers is subsidized by UDF collected from International passengers.</li> </ul> <p><i>To give a boost to domestic traffic in the region, it is suggested that the UDF collected from domestic passengers should be subsidized by international passenger UDF collection.</i></p> <ul style="list-style-type: none"> <li>• If the operator is not able to recover the aeronautical or UDF charges (as per AERA approved tariff) from the airport users for any reason, then AERA should allow the recovery in the subsequent years.</li> <li>• The adjusted UDF can be submitted to AERA along with Annual Tariff Proposal every year.</li> </ul> <p><i>In order to ensure the viability of airport projects, it is essential that the airport operator gets a fair return on the investments made for creating the airport facilities. If an airline defaults in payment, the charges will be increased in subsequent years for all airlines due to under-recovery. Hence all the airlines will prefer to pay airport charges in timely manner.</i></p>
47	6.14.1	<ul style="list-style-type: none"> <li>• The service quality rebate term is a factor that reduces the yield per passenger, if the airport operator does not achieve certain quality standards. Similarly some incentive has to be provided to the airport operator in case the service standards are over-achieved.</li> </ul>

Page	Item	Comments / Feedback
		<p><i>If the airport operator is penalized for not achieving the services standards then he should be incentivized as well for performing better than benchmark. Over-achievement itself will bring in more benefits on terms of customer satisfaction. For example walkalators, comfortable seating arrangements, customer helpdesks at various places, hygienic environment, multiple washrooms etc. will enhance the customer experience.</i></p> <ul style="list-style-type: none"> <li>• The incentive can be calculated using same formula provided for the service quality rebate term (as per clause 6.14.4). However it can be added instead of subtracting from the yield per passenger.</li> </ul>
48	6.14.2	<p>Monthly assessment of meeting performance standards may not be appropriate as some of the performance indicates such as ASQ passenger ratings are carried out on a quarterly basis. The ASQ programme does not allow for monthly results which in effect mean the airport operator would have to duplicate the activities in order to obtain monthly feedback. As regards OMDA Schedule 3 performance requirements, quarterly assessments should also be considered to be sufficient in order to avoid adding to the cost and administrative burden of the airport operator. The airport operator should therefore have an option to choose the frequency with which performance related feedback is provided ranging from monthly to quarterly feedback according to practicality and cost.</p> <p>A further issue to be considered is seasonality. Monthly or quarterly variations in performance may be due to seasonal factors (e.g. variations in passenger numbers during high &amp; low season, weather related issues, etc.). Hence, performance comparisons should be made not on the basis of the previous month/quarter but with regards to the previous year.</p>
48	6.14.3	<p>For the ASQ passenger feedback survey seasonality is a key consideration. Variations in performance may be due to seasonal factors (e.g. variations in passenger numbers during high &amp; low season, weather related issues, etc.). Hence, performance comparisons should be made not on the basis of the preceding quarter but with regards to the previous year's quarter.</p>
50	6.15.1	<p>The forecast error correction term shall correct the full difference, instead of half the difference as proposed, due to variation in actual and forecasted volume. It is extremely difficult to forecast the traffic for any agency as it depends upon various macro-economic factors. Hence the airport operator should not be penalized for the variation in the forecasted traffic.</p>
58	6.20.2	<ul style="list-style-type: none"> <li>• The under-recovery or over-recovery of the charges in year 't' should be adjusted in year 't+2' based on actual capital expenditure, traffic, operating expenditure, depreciation, tax and non aeronautical revenues in year 't'.</li> <li>• The under-recovery due to factors beyond the control of airport operator should be compensated within Multi Year Tariff Proposal period.</li> </ul> <p>As proposed if only partial recovery is allowed for forecast error, the operator will be in great loss and will not be able to provide required services to airlines and passengers. It is clearly stated that over-recovery will be clawed back, but under-recovery adjustment is based on various factors which may be unfair towards the airport operator. In subsequent years, the airport operator may try to under estimate</p>

Page	Item	Comments / Feedback
		volumes, to get higher yield per passenger, which may unnecessarily result in increased aeronautical charges or UDF.
<b>Appendix 1: Consultation Protocol</b>		
65	A1.1.	A minimum investment floor should be given clarifying when and for which type of project a consultation process should be undertaken. Having to go through a consultative process for any type and size of investment will only hamper development.
68	A1.3.3.	While splitting a project into several projects in order to reduce the investment volumes below the threshold should be avoided (as is the objective of this clause), there should also be a mechanism for avoiding arbitrarily lumping unrelated projects by putative Users in order to ensure they cross the threshold and force a consultative process were none would otherwise be required.
72/73	A1.5.3. / A1.5.4	The information requirement by the Airport Operator seems unduly heavy leading to considerable administrative burden and disclosure. This issue should be reviewed and simplified.
73	A1.6.	The referral process to the Authority should be time bound in order to avoid any project delays.
<p><b><i>General comments on the Consultation process:</i></b> Airports by their very nature have a wide variety of stakeholders and customers whose overall concerns they have to keep in consideration. Individual stakeholders frequently have singular interests (e.g. low cost airlines don't want boarding bridges; all-cargo carriers don't worry about passenger infrastructure; full service carriers want differentiated services for their first, business and economy passengers).</p> <p><i>As the Airport Operator has to take a view which developments are in overall interest to the users, it has to be clear that user consultation means a true and fair hearing and assessment of user views but not necessarily agreement with those or any single stakeholder's views.</i></p>		
<b>Appendix 3: Subjective Quality of Service Parameters and Benchmarks</b>		
77	A.3.1	For the ASQ passenger feedback survey seasonality is a key consideration. Variations in performance may be due to seasonal factors (e.g. variations in passenger numbers during high & low season, weather related issues, etc.). Hence, performance comparisons should be made not on the basis of the preceding quarter but with regards to the previous year's quarter. Furthermore, it should be noted that a number of activities (e.g. customs, immigration, security) are carried out by government agencies and not by the airport operator. The operator's direct influence on performance of these activities is therefore limited. Other activities also (e.g. ground handling, check-in, friendliness of airport staff, etc.) are carried out by airlines, ground handling companies, retail and F&B concessionaires and other stakeholders. As a consequence the airport operator can only have limited control over these activities.
81	A4.2.1.3.	Check-in is carried out either by the airline directly or their chosen ground handling agent. The efficiency levels of check-in varies greatly amongst airlines/ground handling agents and can only be partly influenced by the airport operator (for instance through provision of check-in desks, self check-in kiosks etc. and avoidance of down time of infrastructure). Given the limited control over this process airport operators should not be held responsible for lack of efficiency of third parties.
81	A4.2.1.4	Airport Operators rarely carry out ground handling activities. This is usually done by airlines or their appointed ground handling agents. Given the limited control over

Page	Item	Comments / Feedback
		this process airport operators should not be held responsible for lack of efficiency of third parties.
81/82	A4.2.1.5	The passenger arrival experience is the result of contact with various stakeholders including airlines, ground handling agents, immigration, customs etc. Inefficiencies at any of that non-Airport Operator related touch-points should be recognized and not to be led for penalties to the airport operator.
Appendix 5:		
93 - 116	A5.1 - A5.11	The detail and volume of information to be submitted to the Regulator appears highly inflated. This will cause the operator unreasonably high additional cost and administrative effort and overhead. The type and volume of information required should therefore be reviewed and reduced. It is difficult to see how the Regulator will be able to process all the received documentation given the constantly increasing volume of air traffic resulting in an ever larger number of airports that will come within the purview of the Regulator. There is a real risk of the regulatory process becoming unduly slow and bureaucratic hampering ongoing operations and discouraging investment in new infrastructure.