



Federation of Indian Airlines

E-166, Upper Ground Floor,
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New Delhi - 110019.

Website: www.fiaindia.in

03 September 2019

To,
The Chairperson,
Airports Economic Regulatory Authority of India (AERA),
AERA Building, Administrative Complex,
Safdarjung Airport, New Delhi-110003.

Kind Attention: Shri. B S Bhullar IAS

Subject: FIA Submission towards the CP. No. 04/2019-20 dated 14.08.2019 in respect of the "Determination of tariffs for Express Cargo Operations of EICI in respect of CSIA, Mumbai, for the 2nd Control Period (01.04.2016 to 31.03.2021)"

Dear Sir/Madam,

We, Federation of Indian Airlines (**FIA**) on behalf of one of its member airline (IndiGo), write in response to File No. AERA/ 20010/ EICI / C/ Mum/ CP-1I/ 16-17/ Vol-I (Consultation Paper No. 04/2019-20) dated 14.08.2019 in respect of the "*Determination of tariffs for Express Cargo Operations of Express Industry Council of India (**EICI**) in respect of Chhatrapati Shivaji International Airport, Mumbai, for the 2nd Control Period (01.04.2016 to 31.03.2021)*" (**CP**) issued by the Airports Economic Regulatory Authority of India (**AERA**).

FIA understands that the present CP is in continuation of the Order No. 26/2017 – 18 dated 30 November 2017 (**Order**) passed by AERA for the 2nd Control Period (01.04.2016 to 31.03.2021) in respect of EICI. It is pertinent to note that tariff determined in the Order was determined on an "*Ad-Hoc*" basis applicable for a period of one year from the effective date.

At the outset, FIA wishes to state that AERA is under a bounden duty to determine the tariff in terms of: -

- (a) Section 13 of the Airports Economic Regulatory Authority of India Act, 2018 (**AERA Act**);
- (b) AERA (Terms and Conditions for Determination of Tariff for Services provided for Cargo Facility, Ground Handling and Supply of Fuel to the Aircraft) Guidelines, 2011 ("**Tariff**")



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Guidelines”);

(c) Regulatory jurisprudence and settled principles of law.

Given the above background, FIA wish to submit the following:

1. Absence of stakeholder consultation and availability of documents/information including Multi Year Tariff Proposal

FIA submits that Clause 11.2 of the Tariff Guidelines mandates that Annual Tariff Proposals for AERA’s approval shall be supported by the following: *“(a) Details of consultation with the stakeholders along with: (i) documented evidence that consultations with stakeholders have been undertaken; (ii) summary of concerns raised by the stakeholders; (iii) details of remedial action, if any, undertaken by the Service Provider, with reasons, in respect of the concerns so raised; and (iv) reasons for not addressing the balance concerns.”* FIA submits that it appears that EICI has not conducted any consultations with the stakeholders. The same may said to be in contravention of the requirement under Clause 11.2 of the Tariff Guidelines.

Further, FIA wish to submit that as per Clause 7.2 of the Tariff Guidelines, AERA shall *“put in the public domain for stakeholder consultations, inter alia the following information received from the Service Provider(s) as part of their Multi Year Tariff Proposal(s): 7.2.1. Materiality Assessment of Regulated Service(s) at the major airport; 7.2.2. Competition Assessment at the major airport and 7.2.3. User Agreements (s) between the Service Provider and the Users of the Regulated Service(s)”* FIA submits that the above mentioned information *(including the Multi Year Tariff Proposal)* has not been placed in the public domain, for review by the stakeholders, in contravention of the requirement under Clause 7.2 of the Tariff Guidelines.

2. Absence of Review of Cost

FIA submits that as per the Decision No. 1 (a) (iii) of the Order, AERA had urged EICI to carry out review of all costs, re-negotiate costs imposed by certain entities and evaluate possibilities of reduction/rationalization of costs. The Present CP fails to provide the details of any efforts or actions undertaken by EICI in terms of the above-mentioned decision of AERA.



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3. Reduction of Turn Around Time and execution of Service Level Agreement

FIA submits that the present clearance through EICI takes a long time and the customs department, at times, carries out physical inspection of every bag, which leads to a delay and affects carrier Turn-Around Time (TAT).

It is pertinent to note that reducing carrier TAT is also stated under Clause 2.1.2.3 of the National Air Cargo Policy, 2019 (NACP) published by the Ministry of Civil Aviation (MoCA), as one of its mission statements which is *"to ensure seamless movement of cargo at all the airports, tail to tail transfer of domestic and international cargo to reduce turn-around time..."*.

Further, FIA member airline have entered into a tri partite agreement (Standard Ground Handling Agreement) with EICI and Cargo Service Centre (I) Private Limited. at Mumbai Airport. However, no Service Level Agreement (SLA) has been executed as part of the SGHA. FIA submits that such SLA should compulsorily be executed and be part of the SGHA, to improve the efficiency of the cargo clearance including the turn-around time. The same issues have been raised with EICI and CSC on numerous occasions, however no SLA has been signed till date.

4. Waiver on Custom Cost Recovery Charges

FIA submits that Per Para 2.1.3 of the CP, *"The Authority directs M/s EICI to clear all the outstanding augmented due to Custom Cost charges from own sources to gain the waiver. The Authority has not considered the cost of Custom Cost Recovery Charges while calculating the Aggregate Revenue Required (ARR), The Authority will consider the aspect of Customs Cost Recovery Charges after settlement/waiver of Customs Cost."* From the above Para 2.1.3, it appears that no exemption is presently available with EICI in relation to Custom Cost Recovery Charges (CCRC).

FIA understand that the waiver/exemption for CCRC may be availed by EICI under the Circular No. 16/2013 – Customs dated 10 April 2013 (Customs Circular). In terms of the Customs Circular, waiver for payment of CCRC may be sought by EICI subject to certain conditions. FIA requests AERA to kindly direct EICI to inform the stakeholders upon receipt of the relevant waiver/exemptions in relation to CCRC, as and when made available.



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FIA is hereby placing on record its submission in response to the CP for your kind consideration, without any prejudice and craving to submit any additional submission as and when required. FIA also reserves its rights to file a more detailed response, as deemed fit.

Thanking you,

Yours Sincerely,

For and on behalf of the Federation of Indian Airlines,

A handwritten signature in dark ink, appearing to read 'Ujjwal Dey', is written over a horizontal line.

Ujjwal Dey
Associate Director