Subject: **Fwd: Stakeholders comment on Jaipur and Calicut Airport**
To: V K Sachdeva <vk.sachdeva@aera.gov.in>

Date: 07/18/17 10:19 AM
From: Jaimon Skaria <jaimon.skaria@gov.in>

Calicut stakeholders comment Reply.docx (28kB) Jaipur stakeholders comment.docx (25kB)

Jaipur

-------- Original Message --------
From: **Ranjit Kumar Das** <ranjitkdas@AAI.AERO>
Date: Jul 17, 2017 6:56:31 PM
Subject: Stakeholders comment on Jaipur and Calicut Airport
To: "Somani, Abhishek <asomani1@kpmg.com>, (asomani1@kpmg.com)" <asomani1@kpmg.com>
Cc: ED JVC <edjvc@AAI.AERO>, Vidya <vidya@AAI.AERO>, "jaimon.skaria@gov.in" <jaimon.skaria@gov.in>, Jaimon Skaria <jaimonskaria@AAI.AERO>

Dear Somani

Please find attached the reply to the queries of stakeholders comment on Jaipur and Calicut Airport .

R.K.Das
AGM(F&A)
AAI/CHQ

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Jaimon Skaria
Manager (Finance)

FIA'S QUERIES AND AAI'S REPLY ON JAIPUR AIRPORT		
S. No.	FIA's Queries	AAI's Replies
1.	Section 13(1)(a) of the AERA Act requires the Authority to 'determine' the tariff for aeronautical services. Any 'determination' by a statutory authority must clearly show the application of mind and analysis carried out by the Authority. However, in the present case, the Authority has proposed to allow various expenditures like Operating Expenditure, General Capital Expenditure, Tariff Rate Card, etc. merely on the basis of JIA's submission but has failed to provide any justification of its own or analysis for the same. In this regard judgment of the Hon'ble Supreme Court in the case of **Ashok Leyland Ltd. vs. State of Tamil Nadu & Anr.** reported as (2004) 3 SCC 1 (FB) (at Paragraph No. 94) is noteworthy. Hon'ble Supreme Court has held that the word 'Determination' must also be given its full effect to, which pre-supposes application of mind and expression of the conclusion. It connotes the offiJIAl determination and not a mere opinion or finding. The Hon'ble Telecom Dispute Settlement Appellate Tribunal ("TDSAT") has also held that determination requires application of mind in the Judgment dated 16.12.2010 in Appeal No. 3(C) of 2010 titled as **ZEE Turner Ltd. vs. TRAI &Ors. (at Paragraph No. 150)**	AERA goes on systematic approach for setting airport charges based on building blocks. However, AERA may like to comment further as deemed necessary.
2.	Section 13(1)(4)(c) of the AERA Act mandates that any decision by the Authority must be fully documented and explained. To the dismay of the Stakeholders (including airlines), the Authority vide the present Consultation Paper has *simplicitor* accepted JIA's claims without conducting its own independent financials study and	AAI has submitted their proposal on Jaipur Airport on 1st Control Period on Single Till basis and 2nd Control Period on Hybrid Till basis. AERA after examining the proposal, has released Consultation Paper wherein AERA has documented the financials accepted by them and corresponding AAI's submission on the financials. AERA's and AAI's views are properly

	prudence check or commissioning experts. It is regrettable that the Authority in the year 2012 i.e. at the time of issuance of DIAL Tariff Order (No.3/2012-13) had decided to commission its own experts has failed to do so till now.	documented in Consultation Paper.
3.	(a) Single Till Model ought to be applied to ALL the airports regulated by the Authority regardless of whether it is a public or private airport or works under the PPP model and in spite of the concession agreements as the same is mandated by the statute. (b) Single Till is in the public interest and will not hurt the investor's interest and given the economic and aviation growth that is projected for India, Fair Rate of Return (FRoR) alone will be enough to ensure continued investor's interest. (c) MoCA's view(s) with respect to any issue at best can be considered as that of a Stakeholder and by no means are binding to Authority's exercise of determination of aeronautical tariff as is admitted by MoCA itself before the AERAAT. In view of the above, it is submitted without prejudice that determination of aeronautical tariff on Hybrid Till basis for the first control period would set the tone and precedent for determination of aeronautical tariff in subsequent control periods contrary to the applicable legal framework. Thus, it is submitted that Authority should discard the option of determination of aeronautical tariff on Hybrid Till and follow Single Till scrupulously.	Ministry of Civil Aviation has in the recently announced Civil Aviation Policy stated that: "To ensure uniformity and level playing field across various operators, future tariffs at all airports will be calculated on a 'hybrid till' basis, unless otherwise specified for any project being bid out in future. 30% of non-aeronautical revenue will be used to cross-subsidize aeronautical charges. In case the tariff in one particular year or contractual period turns out to be excessive, the airport operator and regulator will explore ways to keep the tariff reasonable, and spread the excess amount over the future." AERA vide letter No. F.No. AERA/20010/Civil Aviation Policy/2014-15/9408 dated 4th August, 2016 has requested AAI to re-submit the Multi Year Tariff Proposal for determination of Aeronautical Tariff for the 2nd Control period on 30% Hybrid Till basis for Seventeen Major Airports and true up of eleven Major Airports for the First control period .
4.	AERA vide its order 16/2015-16 dated 17.04.2015 had decided to continue existing tariffs on ad-hoc basis and advised AAI to submit MYTP for the 2nd control period well in time.	AAI has submitted MYTP on 1st Control Period on Single Till basis and 2nd Control Period on Hybrid Till basis in the month of February, 2017. After thorough examination of AAI's proposal by Consultant of AERA, M/s

	It may kindly be noted that AAI has submitted its proposal on 08.12.2015 (7.5 months from the order) and almost 4 months well before start of 2nd control period and further AERA allowed AAI to resubmit the MYTP under hybrid till on 08.03.2017 (with a time gap of 15 months from first submission) post release of NCAP (June, 2016) and revised submission on 21.04.2017. AERA circulated this Consultation Paper on 16.06.2017 (almost 18 months from the first submission). This can be treated as an intentional delay, allowing AAI to move from Single Till to Hybrid Till.	KPMG and AERA, it came out with Consultation Paper on 16/06/2017.
5.	AERA proposed to conduct a study based on which the treatment to be given to cost of land can be determined on a sound reasoning. AERA should share the timelines of the study and likely date of the report.	It pertains to AERA.
6.	There was runway closure (from 1200 hours to 2000 hours) between 18.09.2015 to 28.02.2017. Still actual traffic growth for FY 16-17 was 20% (DOM) and 14% (INTL). But AERA has taken 50% of the future growth rate from FY 17-16 onwards, at time when there will be no runway closure. Therefore, AERA needs to re-examine the traffic growth projection. Further, AERA agrees to true-up the actual growth achieved in the 2nd control period while determining tariff for the 3rd control period. But same the principle is not been implemented while determining tariff for the 2nd control period – ignoring actual growth rate for FY 16-17 (1 year of the 2nd control period).	The query does not pertain to Jaipur Airport. The growth rate of Air Traffic Movement for FY 2016-17 has been considered while finalizing Jaipur MYTP by AERA. AERA has noted that PSF (F) has fallen for the FY 2012-2013 as compared to FY 2011-2012 in respect of Jaipur Airport. The PSF (F) in the FY 2013-2014 has not increased commensurate with the increase in the growth rate. This is mainly due to cross booking of PSF(F) and UDF for the FYs 2011-2012, 2012-2013 & 2013-2014 respectively. The overall booking of PSF and UDF for the FY 2011-2012, 2012-2013 & 2013-2014 is correct.
7.	Authority proposes to consider FRoR at the rate of 14%. Cost of equity at 14% pa for State is unreasonable and without any justification. AAI being a State Undertaking is under the Constitutional	AERA allows 16% rate of return on cost of equity. For AAI's major airports, AERA has allowed 14% rate of return in line with Kolkata, Chennai , Lucknow and Guwahati Airport

	obligation to cater the public interest and not commercial interest. Therefore, cost of equity of 14% pa is very high and are arbitrary.	order of First Control period .
8.	We also witnessed a substantial jump in landing charges (31% & 26%- Domestic, 26% & 24% International sector for JIA.	The landing charges have been increased by 31% and 26% on international and domestic aircraft movements. The revenue requirement of Jaipur Airport is more than that of existing Aeronautical Charges, necessitating the proposed increase.
9.	Passenger Service Fee (PSF): In case of JIA, 2.5% collection charges on PSF security was not mentioned in the consultation paper, FIA requested AERA to clarify the same and spell out in the order. User Development Fee (UDF): FIA pointed out that collection charges of Rs. 5/- per pax in case of UDF and 2.5% on PSF was decided almost a decade back. During last decade, these charges kept on increasing, whereas collection charges remain static. Rather in some cases it used to be exclusive of tax, now in recent orders of AERA they are inclusive of tax - 18% in GST. The same needs to be looked into by AERA.	The collection charges of Rs. 5.00 per pax in case of UDF has been proposed by AAI whereas in case of DIAL and MIAL, only Rs. 2.5 per pax is allowed as collection charges. Over the period of ten years, the number of passengers has increased substantially, so the total amount of collection charges to be paid to the airlines has also increased.
10.	There was a note specified under the UDF charges stating that in case of <u>ANY outstanding</u> carrier will not be entitled for collection charges. FIA pointed out that in a going concern there will always be dues and some of them may be disputed. This line should be removed from the note. FIA raised the issue of delay in settlement of collection charges by airport operator. FIA stated that if AERA or airport operator specifies that PSF/UDF should be paid within 15 days, they should also include the reciprocate condition that collection charges should be settled within 15 days of submission of invoice by carrier as in certain cases sometime it is pending for more than one year and never	Airlines are eligible for collection charges if it is settled within 15 days of submission of invoice. Airlines will not be eligible for collection charges if any outstanding is there for that carrier. In case of DIAL and MIAL, the same principle is applied. The words in the collection charges of DIAL's order are as under: 'To be eligible to claim this collection charges, the airlines should have no overdue on any other account with DIAL.'

	settled before 3 months. FIA stated else airport operator should pay 18% interest.	
11.	FIA raised the issue of steep hike in UDF charges by almost 100% in Jaipur on account of USD pax.	There is a hike in UDF charges because the revenue requirement of Jaipur Airport is more than that of the existing Aeronautical Charges, necessitating the proposed increase.
12.	FIA pointed out that with the introduction of GST the industry has an additional impact of Rs 3000/- crores, the substantial part of which may not be set-off due to restricted ITC on economy class and will sit in our financial statement as cost. The airport operator has recently revised their land rates by 270%, which may not be in the prerogative of AERA but all these things will lead to passing on the burden to customer. Over & above if UDF charges are increased, it will be detrimental to industry interest. AERA needs to consider the overall market scenario.	AERA considers land lease revenue as Aeronautical Revenue. The increase in land lease rentals by AAI has been considered by AERA as Aeronautical Revenue on Hybrid Till basis. In fact this approach has the effect of reducing the charges.