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Ref No: GIAL/CO/AERA-MYTP/2024/3 **Date: 16th July 2024**

To,
The Director (P&S, Tariff),
Airports Economic Regulatory Authority of India,
AERA Building, New Administrative Block,
Safdarjung Airport,
New Delhi- 110003.

Sub: Counter Comments on stakeholder comments in respect of Consultation Paper No. 01/2024-25 dated 6th June 2024 in The Matter of Determination of Aeronautical Tariff for Lokpriya Gopinath Bordoloi International Airport, Guwahati (LGBIA) for the Third Control Period (01.04.2022 - 31.03.2027)

Dear Sir,

This is in respect to the Consultation Paper No. 01/2024-25 dated 6th June 2024 in The Matter of Determination of Aeronautical Tariff for Lokpriya Gopinath Bordoloi International Airport, Guwahati (LGBIA) for the Third Control Period (01.04.2022 - 31.03.2027), we hereby submit our counter comments to the stakeholder comments published by AERA on its website via Public Notice Nos. 09/2024-25 and 10/2024-25 dated 8th July 2024 and 9th July 2024 respectively.

We shall be pleased to provide any further information that the Authority may require in this regard.

Thanking you

Yours Sincerely,
For **Guwahati International Airport Limited,**

Ashu

Ashu Madan
Authorized Signatory

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Counter comments on stakeholders comments in respect of Consultation Paper No. 1/2024-25 dated 6th June 2024 in The Matter of Determination of Aeronautical Tariff for Lokpriya Gopinath Bordoloi International Airport, Guwahati (LGBIA) for the Third Control Period (01.04.2022 - 31.03.2027)

Disclaimer:

This document has been prepared by Guwahati International Airport Limited (GIAL) as counter comments to the comments provided by various stakeholders in respect to AERA's Consultation Paper No. 1/2024-25 dated 6th June 2024 in The Matter of Determination of Aeronautical Tariff for Lokpriya Gopinath Bordoloi International Airport, Guwahati (LGBIA) for the Third Control Period (01.04.2022 - 31.03.2027).

The purpose of this document is to solely provide a counter comment to the comments provided by stakeholders and should not be referred to and relied upon by any person against GIAL. This document includes statements, which reflect various assumptions and assessments by GIAL and relevant references to various documents. Same does not purport to contain all the information to support our response.

This document may not be appropriate for all persons, and it is not possible for GIAL to consider particular needs of each party who reads or uses this document.

Whilst every effort has been made to ensure the accuracy of the information provided herein, GIAL cannot be held responsible for any errors or omissions. GIAL shall have no liability to any person under any law for any loss, damages, cost, or expense on account of anything contained in this document.

The counter comments provided below shall not be construed as an acceptance by GIAL of the various assumptions undertaken by the Authority in the CP.

The response is without prejudice to GIAL's rights, submissions, contentions available to it in accordance with applicable laws.

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1. Counter comments on comments from FIA

1.1. Observation on proposed Tariff Card (Proposed by GIAL): Annex A of FIA Comments

Table A

Landing Charges ....

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Refer the above displayed Tables A, B and C, kindly note the following from the above tables:

1. Tables A: GIAL has proposed an increase in the Landing Charges (Domestic) on Q-400 (80 & above seater) approximately increasing around 375 % from existing; and on B-737-800 and A320 approximately increasing around 250 % from existing charges. Similarly, for Landing Charges (International) on Q-400 (80 & above seater) approximately increase around 251% from existing charges; and on B-737-800 and A320 approximately increase around 171 % from existing charges.

2. Tables B: GIAL has proposed to increase in the Parking Charges (Domestic & International) on Q-400 (80 & above seater) approximately increase between 515% to 578 % from existing charges; and on B- 737-800, A320 approximately increase between 271 % to 317% from existing charges.

3. Table C: GIAL has proposed an increase in the UDF of between 123% to 156% for Domestic and between 70% to 95% for International Embarking Passengers.

4. Table C: GIAL has proposed UDF for Disembarking passengers for both Domestic and International Passengers.

It is in the interest of all the stakeholders that the proposed tariffs as noted above may not be implemented as the proposals are excessive.

Response by GIAL:

The existing airport infrastructure is not commensurate with the growth achieved in traffic throughput, which can be correlated from the fact that at present LGBIA has one operational terminal with capacity to handle ~2 mm pax per annum. Last year i.e. FY 24 LGBIA handled around 5.96 mm pax (i.e. around 300% of its capacity). AAI in Second Control Period (SCP) had envisaged that the current Terminal 1 would be saturated and had proposed construction of a New Integrated Terminal Building (NITB) (Refer para 9.2.4.5 and para 9.21 of LGBIA SCP order). The Authority had even allowed the project on incurrence basis. AAI in SCP had also proposed other airside projects which were linked to construction of NITB such as extension of runway, construction of part parallel taxi way, shifting of isolation bay, construction of link taxiway, storm water drain etc (Refer para 9.24 of LGBIA SCP order). Erstwhile Airport Operator had started some of the above mentioned projects and the same were handed over to GIAL as a part of transition on COD. The investment planned by GIAL (including CWIP) is essential to meet the requirements of the Concession Agreement signed with Airport Authority of India and are necessary to maintain safe & secure operations at the Airport. GIAL is committed to providing the best-in-class experience for its users.

The proposed tariff card is an outcome of the ARR computed as per the Regulatory Building blocks after rationalization of several capex and opex items by GIAL as well as the Authority. Further, the increase in tariff also considers the under recovery of charges of the Second Control Period relating to AAI and almost 2 years of the current control period. The cumulative impact of these factors has affected the tariff.

Further, there are certain obligations under the Concession Agreement which are to be met like payment of Adjusted Deemed Initial RAB to AAI, reimbursement of select employee salaries to AAI, monthly concession fees payments to AAI, maintenance of service standards for operation and development. Out of total ARR proposed of NPV Rs. 1,771 Crs, approx. 10% (Rs. 173 Crs) relates to true-up amount for AAI.

Also, Guwahati Airport has been incurring losses since privatization. GIAL has incurred losses in FY22, FY23 and FY24 totaling ~Rs. 194 Crs.

The existing debt of the company is based on cash flow assumptions including full recovery of the ARR. In case it does not happen, the credit profile of the company will further erode, and it will have cascading impact leading to increase in the cost of debt. This will ultimately translate into a higher FRoR which will not be in the interest of any stakeholder, including airlines.

The percentage increase as calculated by FIA is on account of the facts already brought out in the preceding paras.

1.2. Observation 1:

<u>Para 3.2</u>

It is submitted that as per section 2 of Airport Economic Regulatory Authority of India Act, 2008 ("AERA Act"), under sub-section (a), "aeronautical services means any services provided –
(i)For navigation, surveillance and supportive communication thereto for air traffic management…"
It is submitted that considering the above provisions of the AERA Act, revenue from Air Navigation Services should form part of aeronautical revenues and accordingly AERA should take into account the corresponding revenue and revise the tariff card.

Response by GIAL:
GIAL submits that no capital or operational expenditure related to ANS services (except those mandated under Concession Agreement (CA)) has been included in the tariff proposal.

As per CA, Schedule Q CNS/ATM Agreement, similar to other PPP Airports, the services of ANS are retained by AAI and are not under the purview of GIAL. Since the services are provided by AAI, the rate of ANS services cannot be made part of tariff card of GIAL.

1.3. Observation 2

<u>Para 3.1.2</u>
It is observed that AERA have determined tariffs using the 30% Hybrid Till model including true ups, as applicable.
FIA has advocated the application of Single Till model across the airports in India and submits that AERA should adopt Single Till across all control periods, including by way of true up.
In a Shared/Hybrid till model, the airport operator has the incentive to skew the asset base towards aero-assets, thereby having a higher capital base for calculation of return offered by the regulator.

Response by GIAL:
We would like to submit that adoption of Hybrid-Till Model is considered in view of Provisions of NCAP, AERA order No. 14/2016-17 and GIAL's Concession agreement.
Relevant provisions are indicated below:
A. Relevant extract of National Civil Aviation Policy, 2016 is reproduced below:

"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."

B. Relevant extract of AERA Order No. 14/2016-17 issued on 23rd January 2017 is reproduced below:
The Authority, in exercise of powers conferred by Section 13(1)(a) of the Airports Economic Regulatory Authority of India Act, 2008 and after careful consideration of the comments of the stakeholders on the subject issue, decides and orders that:
(i) The Authority will in future determine the tariffs of major airports under "Hybrid-Till" wherein 30% of non-aeronautical revenues will be used to cross-subsidize aeronautical charges. Accordingly, to that extant the airport operator guidelines of the Authority shall be amended. The provisions of the Guidelines issued by the Authority, other than regulatory till, shall remain the same.

C. Relevant extract of the GIAL's Concession Agreement with AAI is reproduced below:
28.3.2. The GOI has, through the National Civil Aviation Policy dated June 15, 2016, approved, ("Shared-Till Approval") the 30% (thirty percent) shared-till framework for the determination and regulation of the Aeronautical Charges for all airports in India, and the same shall be accordingly considered by the Regulator for the purposes of the determination of the Fees/Aeronautical Charges pursuant to the provisions of this Agreement. It is clarified that, for the purposes of this Agreement, the Shared-Till Approval shall apply as on the date of this Agreement notwithstanding any subsequent revision or amendment of such Shared-Till Approval."

Further, we would like to bring to the Authority's attention that TDSAT vide order dated 23rd April 2018 (with respect to matters related to tariff determination of First Control Period of DIAL) has rejected contention of FIA with respect to adoption of single till as it is contrary to the provisions of the Concession agreement. Adoption of shared till by the Authority is correct because it creates a harmony between the contract (OMDA/SSA) and the statute. The Hon'ble Supreme Court vide order dated 11th July 2022 has also disposed off the appeal filed by FIA with respect to various issues related to tariff determination of First Control Period of MIAL (including issue of single till).

Though the matter is already settled by the Hon'ble Supreme Court, the reasons why FIA has again raised this issue with the Authority is not known. Accordingly, the Authority may suitably reply.

1.4. Observation 3:

__Para 2.4.11__

With regard to award for provision of services by GIAL at the airport, four Related Party transactions have been disclosed in para 2.4.11, table 6 of the CP.

While we appreciate AERA conducting an independent analysis of the transactions, however it is to be noted that, AERA has:
(a) sought confirmation from GIAL on the RPT and a review of the same, has been done.
(b) Sought compliance on the same which will be trued up during the next control period.
FIA submits that in our view the above may not be a prudent approach and AERA should conduct the RPT Compliance Check including the following in this control period.
In this regard, we request AERA to kindly ensure that:
(a) The provisions of Concession Agreement ('CA') have been complied with.
(b) Tendering and awards for services must go through a competitive, transparent and fair process.
(c) Agreement with related parties shall not have any onerous terms.
Aggressive cost escalation, restrictive covenants, unfair lock in period or cost escalations or any other terms that may arise from awards to Related Parties, which is not in favour of airport users/other stakeholders.

It is not in the interest of the stakeholders that related parties be awarded agreements for services (or otherwise) as there is fear of multi-layered transactions between / among airport operators or their Joint Ventures or their Holding / Subsidiary / Sister Subsidiary companies (or business associates by whatever name called), which is not efficient for the ecosystem, and should be banned.

Response by GIAL:
As per the Concession Agreement, GIAL is obliged to procure goods and services in a fair, transparent and efficient manner without any undue favour or discrimination. Also, GIAL has framed a procurement policy specifying the principles and processes to be followed to avoid the scope of subjectivity and improving objectivity and transparency in decision making as required under the Concession Agreement. We would also like to inform that GIAL has duly followed the process relating to Procurement of Goods and Services as mandated by the provisions of the Concession Agreement signed with AAI.

In view of the above, we feel that there is no further need for any examination in this regard.

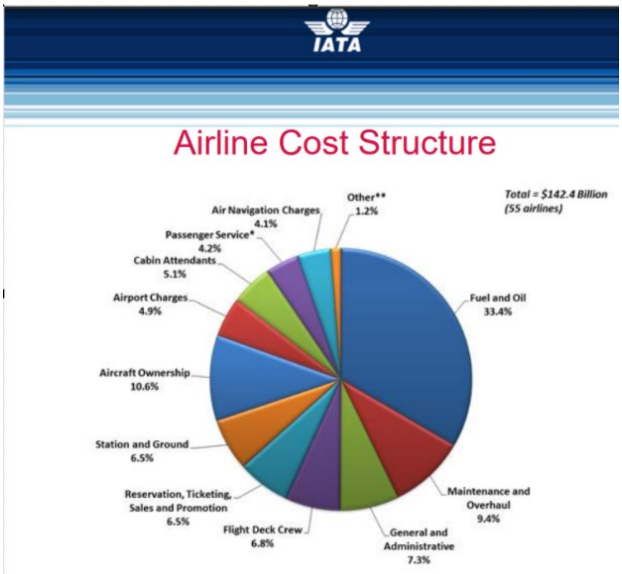
1.5. Observation 4 (a) & 5

__Para 4.8.5 & 5__
It is submitted that:
(a) Fair Rate of Return (FRoR) to airport operators should be provided only at reasonable rates as any high value of fixed/ assured return favours the service provider/airport operators, creates an imbalance against the airlines, which are already suffering from huge losses and bear the adverse financial impact through higher tariffs.

Due to such fixed/assured returns, Airport Operators have no incentive to look for productivity improvement or ways of increasing efficiencies, take steps to reduce costs, as they are fully covered for all costs plus their hefty returns. Such a scenario breeds inefficiencies and higher costs, which are ultimately borne by airlines.

Response by GIAL:
For TCP, Authority has allowed FRoR of 12.21%. However, GIAL is seeking FRoR of 14.76% based on cost of equity of 17.30% as determined by the independent study done for LIAL as per methodology prescribed in AERA Guidelines and cost of debt of 12% as per actuals. If Airport Operators are not given suitable returns on their investment, the development and upgradation of such infrastructure facilities will not be of the level as expected by the Governments, Aviation Industry and Users.

Further it is to be noted that proportion of airport charges to total operational cost of Airlines is insignificant i.e. in range of 4-5% (based on Airline Cost Management Group (ACMG Report of IATA Feb 2015.Snapshot of the same is as below). Thus, its sensitivity towards the profitability of the airlines is minuscule.



Also, with respect to the comment by FIA on huge losses suffered by airlines, please refer the comments provided under point no. 1.21

As far as efficiency is concerned, Airport Operator has and will continue to sweat the assets and build in efficiency whenever possible.

1.6. Observation 4 (b) & (c)

__Para 4.14.1__

Without prejudice to the above:
1. FIA recommends that no adjustment of RAB should be provided in favour of AAI for a period after the COD i.e. 08th October, 2021, post which the operational control of the Guwahati Airport is transferred to GIAL.

2. Further, FIA wishes to draw AERA's attention that any delay in submitting the Multi Year Tariff Plan by the airport operator should be taken into account, as delay in tariff determination process will lead to increase in adjusted deemed initial RAB.

3. With regard to application of compounding factor (FRoR) to determine the future value of under recovery. We request AERA to note our comments as mentioned in S.No. 02 and para (a) and (b) above.

__Para 4.9.5 (ii)__
We appreciate that AERA holds a considered view that stakeholders should not be burdened with significant increase in the Aeronautical tariff arising on account of the increasing capex projects whereas existing traffic base is not sufficient and the recovery of ARR is to be done in less years of this control period, or due to deficiency to recover the ARR on account of higher O&M expenses.

Response by GIAL:
There is no adjustment of RAB after the COD. Calculations done by the Authority in para 4.14 in the CP are to give effect to provisions of the Concession agreement which mandates the present value of the "Adjusted Deemed Initial RAB" to be paid by AO to AAI.

Relevant clause of the Concession agreement is reproduced below:

"The amount(s) to be paid by the Authority or Concessionaire shall be the present value of Adjusted Deemed Initial RAB calculated using the fair rate of return as determined by the Regulator for the time period from the COD to the date of actual payment of the Adjusted Deemed Initial RAB."

FIA's comment w.r.t para 4.9.5 (ii), It is clarified that the reference is not correct. Para 4.9.5 relates to Rationalization of Aeronautical O&M expenses relating to True Up of AAI for pre-COD period.

1.7. Observation 6 (a):

<u>Para 6.2.3 – 6.2.4</u>

It is hereby submitted, that FIA is not in agreement with the proposal of AERA to consider the billable ATM traffic after excluding the ATMs that pertain to less than 80-seater capacity for non-RCS flights that are exempted from landing charges as the same is without any basis.

It may be noted that it will not be a true indicator of the traffic projections at the GIAL and any deductions from billable traffic will adversely impact the computation of non-aeronautical revenue. FIA requests AERA to reconsider the same, in line with the AERA's consistent approach with all
Major Airports.

In view of the above, FIA proposes that the exempted billable ATM/passenger traffic as proposed by AERA in their tariff card should not be accepted.

Response by GIAL:

It is submitted that as per current and likely future mix of ATMs, out of the total exempted traffic submitted by the Airport Operator, 14% of the total domestic ATMs pertaining to non-RCS flights (i.e. less than 80-seater aircrafts) are exempted from landing charges as per GoI/MoCA guidelines. The details of which are already submitted as part of our comments to CP.

Similarly, there are certain categories of passengers who are exempt from payment of UDF charges. It is to be noted that AO has made the adjustment in ATMs/Passengers to calculate only the billable ATMs/Passengers as the same is necessitated to project the correct aeronautical revenues.
The Authority has reduced the ATMs, however has not reduced the passengers. We would like to highlight that this approach of the Authority, of not reducing RCS ATMs and exempted Passengers, is not in line with expected principle of regulatory framework which ensures timely and complete recovery of approved ARR by matching the expected revenue with ARR. If the exempted revenues are not taken into account by the Authority, the same will result in lower recovery from landing charges and UDF and consequently lead to mismatch of ARR and revenue from day one. This would lead to questioning of calculation by Authority.

Kindly refer to the detailed response in point 2.1 in the stakeholders' comments submitted by GIAL.

1.8. Observation 6 (b):

<u>Para 6.2.10 – 6.2.11 and Table 69 & 71</u>
While FIA appreciates that AERA has considered the traffic report issued, ACI and IATA (refer para 6.2.9). FIA requests AERA to kindly conduct their own independent study, which may also include demand drivers that may not have been part of the report issued by ACI and IATA, as deemed fit, including factors such as the traffic that would be generated due to the forthcoming general elections.

We would also like to draw the attention of the Authority, that the trends in the recent post pandemic times may not be a reasonable benchmark, whether be it of passengers or traffic, as economic factors such as inflation or market demand / prices may not continue in the same rate or trend in the future, since the recent post pandemic trends are due to unusual factors such as the COVID-19, revenge tourism, Geo-political causes, recent financial meltdown of banks in the USA, etc.

Authority may kindly take the same into consideration (and appoint independent consultants to evaluate the same if deemed fit) while finalizing the projected ATM and passengers

Response by GIAL:

GIAL's submission of traffic projection was based on a study conducted by an independent expert consultant who have used various variables, permutations, combinations and generally accepted principles while performing regression analysis for deriving long term traffic scenarios. Similarly, the Authority through its independent consultant has also done a detailed analysis of various factor affecting traffic projections and accordingly adjusted the traffic forecast as required. The outcome of both studies in long term corroborate with each other.

In view of the above, we feel that there is no requirement for conducting any further study on traffic projections.

1.9. Observation 7 (a):
FIA submits that the entire ecosystem needs to be operationally efficient, which can be implemented, amongst other things by capital expenditure efficiency studies, which AERA is requested to conduct.

Response by GIAL:
Airport Operator conducted the Airport User Consultation Committee (AUCC) Meeting on 6th July 2023, with all the stakeholders and discussed the Capital Expenditure proposed to be undertaken during the Third Control Period of FY 2022-23 to FY 2026-27 in detail. The meeting was attended by various airport stakeholders such as International Airport Transport Association (IATA), Federation of Indian Airlines (FIA), The Associated Chambers of Commerce & Industry of India (ASSOCHAM), Indigo, Spicejet, FlyBig, Vistara, Akasa Air, AirAsia, BAOA, Blue Dart, IOCL, HPCL, BPCL, Reliance, AAI, Immigration, Local Trade Bodies among others. GIAL had given a detailed presentation and justification for the capital expenditure planned by the Airport Operator taking into account the existing challenges in GIAL pertaining to constraint capacity vis-à-vis passenger growth, location, topography, weather conditions, limited availability of land, etc.

Further, the Authority as part of its examination of the Aeronautical Capital Expenditure submitted by the Airport Operator had raised queries and sought clarification on the essentiality of the capital expenditure and had been provided the necessary documents such as project cost estimates, technical Consultant's report, design, drawings, plans, inspection report issued by various authorities etc., substantiating the capital expenditure proposed by the Airport Operator in the MYTP.

The Authority and its consultant had also conducted a site visit on 10th October 2023 and 21st – 22nd March 2024 for an independent assessment of the physical progress and to review the CAPEX.

Further, the Authority by themselves and through their consultant have analyzed each project from the perspective of requirement and cost efficiency very minutely which is reflected in the Authority's comments in the Consultation Paper as well.

Given the above steps taken by the Airport Operator and Authority, we feel there is no need to do another separate study on efficiency of capex.

1.10. Observation 7(b):

__Para 7.3. 4 (i)__
We request that AERA applies the normative norms for the capex projects as mentioned under AERA Order No. 7/2016-17 dated 13 June, 2016 in order to keep the overall cost control and efficiencies in capex projects.

Further in para 7.3.4 (iv), AERA has considered INR 1,05,357 per sqm for the terminal building.

In this regard, it is submitted that in the recent orders for FY22, AERA has considered INR 1,00,000 or above per sqm, and with this increase there appears to be an incremental normative rate trend for capex projects. However, it does not appear to be backed by any study conducted by AERA for this control period or a justifiable rationale.

We request AERA to ensure that all aeronautical capex is efficient and without any unreasonable excesses, such that stakeholders, including passengers, do not pay for services/ facilities which are not being availed by the stakeholders or passengers.

Response by GIAL:
We request the stakeholder to kindly refer to point 7.3.4 in the Consultation Paper. The Authority has applied the normative guidelines while assessing the costs of the new Capex projects submitted by the Airport Operator.

With respect to the reasonableness of capex, we request to refer the comments mentioned under point no. 1.9 above.

1.11. Observation 7 (c):

__Para 7.3 and 7.1.10__
We note that AERA has conducted an in-depth analysis of the submissions made by the Airport operator by an independent consultant, which is appreciated.

However, it is requested that, in order to support the airlines to continue and sustain its operations, it is requested that all non-essential capital expenditure proposed by Airport operator be put on hold/ deferred, unless deemed critical from a safety or security compliance perspective.

Further, in case Airport operator wants to make capital expenditure, then it should be at no additional expense to the airlines until the project is completed and put to use by the airlines.

And lastly, we appreciate AERA's consideration of deferring a few proposed Capex projects from the Third Control Period to the Fourth Control Period.

We urge and request AERA to conduct an independent study on efficient and reasonableness of Capex at GIAL.

Response by GIAL:
In the previous paragraphs (point 1.8), we have already detailed the steps taken by the Airport Operator and the Authority on the basis of which the capital projects and cost estimates have been arrived at.

We would like to re-iterate what was mentioned in the minutes of the AUCC conducted on 6th July 2023, that the Master Plan had gone through a rigorous exercise. Also, GIAL would like to mention that the Master plan and proposed projects were appreciated by various stakeholder (including Airlines) during AUCC. GIAL is proposing only those projects which are critically required for safe and secure operations and customer experience.

We have provided all the information to the Authority and its consultant as and when requested by them. Accordingly, the Authority has taken considered view on the Capex proposal as provided in the Consultation Paper. In respect to both short term planning and long-term planning, the Master Plan is submitted to relevant authorities who have appreciated the meticulous planning done by GIAL.

We reiterate our view that there is no need to undertake a separate study on Efficient Capex at LGBIA.

1.12. Observation 7 (d):

<u>Fuel Infrastructure Charges Public Notice 38/2023-24:</u>
Charges for Fuel Infrastructure –

It may be noted that before privatization of airports, there were no such charges related to fuel infrastructure and into-plane which were levied on the airlines.
The Fuel Farm at the airport was developed by the Oil Marketing Companies (OMCs) and they were absorbing all the cost related to fuel infrastructure themselves as part of Aviation Turbine Fuel (ATF) pricing.

Since privatization of airports, two new charges related to fuel have been levied; first 'Fuel Infrastructure Charges' (FIC) and second 'Into Plane Charges' (ITP) at all the airports where open access is available. At a lot of open access airports, fuel infrastructure has been bought over by the airport operator or its Joint Venture (JVs) / Holding / Subsidiary / Sister Subsidiary
companies from the OMCs at a very low price.

The investment made in fuel farms are also through multi-layered transactions between / among airport operators or their JVs or their Holding / Subsidiary / Sister Subsidiary companies. A lot of legal entities have been formed by the airport operator as Joint Venture (JVs) or Holding / Subsidiary / Sister Subsidiary companies with multiplicity of agreements. There may be many more innovative structures as well.

As a result of multiple layers of companies and transactions, there is no transparency and on top of it, multiple layers of overheads are loaded into the costs. In addition, FIC and ITP also suffer from payment of royalty / revenue share to the airport operator or its JV / Holding / Subsidiary / Sister Subsidiary.

FIC and ITP including royalty and / or revenue share, along with GST thereon, is charged by the airport operator from OMCs. OMCs include these charges in the cost of fuel. Once these charges become the cost of fuel, they attract 'non-creditable' Excise Duty @ 11% and 'non-creditable' VAT which may vary from 1% to 29%. Average VAT rate is ~ 13% in India.

As ATF is outside GST, there is no 'Input Tax Credit' (ITC) on GST paid on FIC and ITP. Due to this circuitous billing cost of FIC and ITP become 1.48 times i.e. airlines end up paying 48% higher cost and there is no tax credit available to the airlines. It is a burden on the beleaguered airlines which are suffering from huge losses.

Example:	*Amount Rs.*
FIC / ITP (including royalty / revenue share of airport operator)	100.00
GST	18.00
Total	118.00
Excise Duty @ 11%	12.98
Total with Excise Duty	130.98
VAT @ average rate of 13%	17.03

Total cost with excise duty and VAT 148.01

It is clear from the above example that against the original assumed cost of Rs.100 towards FIC and ITP, airlines end up paying Rs. 148.01 i.e. 48% additional cost and there is no tax credit against the same. Had these charges which are 'Aero' in nature as per AERA Act 2008, been charged directly by the airport operator from the airlines i.e. Rs. 118 including GST, airlines would have got ITC against GST and net cost to airlines would have been ~ Rs. 100 only.

The current method of circuitous billing of FIC and ITP suffers from the following:
1. Makes the whole process non-transparent.
2. Against the concept of 'Ease of Doing Business'.
3. Increases cost for the loss-making airlines and is against the principle of 'Making Aviation Affordable and Sustainable'.
4. Against the vision of Hon'ble Prime Minister of India, Shri Narendra Modi that he would like to see 'Hawai Chappal Wale, Hawai Jahaj Mein' as the high cost will be passed on to the common man by the airlines.
5. There is application of tax on tax, which is fundamentally wrong and adds to Airlines cost.

In addition to the above, it is pertinent to note that there are lot of number of other infrastructure services / facilities like aircraft taxiways, runways, fire services and bird scarers etc., for which there is no separate charge as they are part of airport infrastructure however, the CP proposes separate charges for ATF in the shape of for FIC and ITP charges, which is a contradiction.

In this context, reference may be drawn from the abolishment of Fuel Throughput Charges (FTC), which were earlier being charged as separate charges for provisioning of ATF but were subsequently abolished.

The FTC were being charged by the Airport Operators from the airlines through OMCs with the above circuitous billing mechanism with ultimate non creditable cost of Rs. 148.01 to

the airlines. Both the Ministry of Civil Aviation (MOCA) and Airport Economic Regulatory Agency (AERA) have
abolished FTC vide their order dated 08 January 2020 and 15 January 2020 respectively. Subsequently their revenues have been recalibrated by AERA and there has been no loss to the airport operators.

In view of all the above facts, it is recommended that FIC and ITP be abolished, and necessary calibration may be done in the revenue for airport operators for fuel farms and into-plane operations. This recommendation is revenue neutral for all the airport / fuel farm operators and OMCs and will in turn help the airlines to address the long pending issue of circuitous billing.

Thus, it is requested that the proposal of the GIAL in public Notice No. 38/2023-24 for the revised pricing for Fuel Farm Tariff (Fuel Infrastructure Cost, Aircraft Defueling and Re-fuelling of defueled products) may kindly not be accepted and recalibrated in line with FTC into other airport charges and help and support airlines with to address long pending circuitous tax billing.

Response by GIAL:
It is to clarify that as per CA, Fuel Storage infrastructure is to be built and operated by GIAL as an open access facility. Under the Concession Agreement, GIAL is not allowed to form any JV or Subsidiary.

Secondly in respect to taxation, we believe the relevant Authority has been mindful of the undue burdens on various players in the aviation ecosystem. This is substantiated by the fact, as highlighted by stakeholder also, that fuel throughput charges were abolished by the Authority / MoCA in January 2020 and airport operators were compensated by way of increase in landing charges and airlines were benefitted by way of lower tax burden. Having said the above, we will welcome any new steps that are taken by MoCA/GoI/ the Authority in this direction.

1.13. Observation 7(e):

Para 7.3.11
We agree with AERA's proposal that an adjustment of 1% (or higher of the project cost from the ARR, as deemed fit), is made by AERA for capital expenditure projects is/are not completed/capitalised as per the approved capitalisation schedule other than those affected solely by the adverse impact of COVID-19. Such adjustments can be made by AERA during the tariff determination for the Fourth Control Period.

Response by GIAL:
To avoid repetition of comments on re-adjustment in ARR, please refer our comments to CP (refer point no. 3.9).

1.14. Observation 7(f):

Para 7.3.14 b (iv)
FIA submits that, AERA has considered the Terminal Building Ratio ('TBLR') of 90:10 for Third Control Period.

However, it is important to note the significance of Guwahati as a key tourist destination and the most populous city in Assam. Given its strategic location and role as a major gateway to Northeast India, GIAL has immense potential for higher non-aero revenue, the non-aeronautical ratio proposed by AERA appears to be on the lower side.

Further, as observed by AERA itself, in comparison to the other similar PPP airports such as DIAL, MIAL, BIAL etc., the TBLR was considered above 10%.
Hence, keeping in view the above-mentioned facts, GIAL should better utilize such aspects and space towards increasing their non-aeronautical activities.

We request AERA to allot the best possible ratio towards NAR as deemed appropriate. In view of that, we request AERA to consider the highest possible non-aeronautical allocation in the case of GIAL (preferably higher than 10%).

Response by GIAL:
To avoid repetition of comments on Terminal Building Ratio, please refer our comments to CP (refer point no. 3.13).

1.15. Observation 7(g):

<u>Para 7.5.8 & 7.5.9, Table 114</u>
While acknowledging the depreciation rate applied by AERA in accordance with AERA Order No. 35/2017-18 the 'Useful Life of Airport Assets', it is pertinent to note that useful life of assets at various international airports like London Heathrow, Sydney airport and Amsterdam airport indicated that terminal buildings have useful life of as long as sixty (60) years and aprons have it for as long as ninety-nine (99) years.

FIA submits that the useful life of terminal building for Kannur and Cochin airports have been considered sixty (60) years by AERA and accordingly AERA should prescribe sixty (60) years for the 'Building' including 'Terminal Building as' is practiced by some of the developed aviation ecosystem.

Further, as observed AERA itself feels that GIAL was not able to sufficiently explain the technical evaluation and is devoid of merits (refer para 7.5.8). Hence, in view of that AERA should conduct an independent study on depreciation, as the current depreciation rationale does not provide clarity on the depreciation applied.

Response by GIAL:
AERA Order No. 35/2017-18 the 'Useful Life of Airport Assets' carries a note on the useful lives of buildings as follows:

3	Terminal Building (including VIP Terminal, Bus Terminal, Haj Terminal)	30/ 60	3.33/ 1.67	Either 30 years or 60 years as evaluated by the Airport Operator

Further it is to be noted that the Concession Agreement is valid for 50 years. Therefore, the life of any asset cannot be more than the life of the Concession Agreement.

In GIAL's estimation, the useful life should be 25 years as substantiated by the technical study conducted by an independent expert. Given the GIAL estimation, the Authority has considered it to be 30 years in line with other Airports.

In view of the above, we feel there is no need to do any study on determining Depreciation for TCP.

1.16. Observation 8:

Para 8.2.12 & 8.3
FIA submits that only reasonable Fair Rate of Return (FRoR) to airport operators should be provided.

It is observed that AERA considered FRoR of 12.21%, which is based on cost of equity and cost of debt to the airport operator, for the Third Control Period. However, while such fixed/ assured return favours the service provider/airport operators, this also creates an imbalance against the airlines, which are already suffering from huge losses and are bearing the adverse financial impact through higher tariffs.

Due to such fixed/assured returns, Airport Operators have no incentive to look for productivity improvement or ways of increasing efficiencies, take steps to reduce costs as they are fully covered for all costs plus their hefty returns. Such a scenario breeds inefficiencies and higher costs, which are ultimately borne by airlines.

Without prejudice to the above, we request AERA to consider:

1) In the present scenario any assured return on investment to any service providers like GIAL, in excess of five (5) % (including those on past orders) will be onerous for the airlines, i.e., being at par with reasonable returns on other investments after tax based on the current economic situation of worldwide run-away inflation coupled with rising and historic interest rates.

2) consider the fact that airport industry in India has been established, hence the risk is lower as this is a cost-plus margin business; and

3) to review the financial closure details, debt to equity ratio based on actual weighted average rather than a notional percentage.

4) And, in case AERA is unable to accept our recommendation mentioned above, AERA is requested to conduct an independent study for determination of FRoR to be provided to the Airport operator. Such independent study can be exercised by the powers conferred under the AERA Act and in line with studies being conducted by AERA in case of certain major airport operators.

Response by GIAL:
As per AERA methodology, return on RAB is one of the important building blocks for tariff determination. As claimed by FIA, this is not fixed or an assured return. As per AERA guidelines, the Authority must determine the Fair Rate of Return (FRoR) for a Control Period as its estimate of the weighted average cost of capital for an Airport Operator. Any business is viable only if it generates an adequate return equivalent to its cost of capital as it helps to repay its obligations and give returns to shareholders commensurate to the risks involved in the project.

As per AERA guidelines, FRoR has to be computed using cost of equity which is to be determined using the CAPM method and cost of debt as per actuals for airport operator. FRoR has no linkage with fixed deposit rates. Linking it to the rate of interest on FD is devoid of any merits.

With respect to the issue of independent study, we would like to state that GIAL had the Cost of Equity of 17.30% which is derived based on an independent study for Lucknow airport. We request the Authority to use the same for calculation of FRoR.

1.17. Observation 9:

Para 9.2.2
FIA submits that as per a report published by the Ministry of Finance dated 8th December 2023, the WPI inflation rate is 5.39%. However, we have noted that the proposed inflation

rate by AERA is 3.7 %. This proposed rate aligns closely with the current economic conditions and reflects a prudent approach towards the tariff adjustments.

Response by GIAL:
Please refer point 5.1 and 3.2.2 of GIAL comments to CP submitted to the Authority on 6th July 2024.

1.18. Observation 10(a):

Para 10.2.38 (iv) (Fuel Operating Expenses)
FIA requests that AERA should not permit outsourcing of fuel facility on a "Volume linked fee basis" and instead it should be on "lowest cost model" through competitive bidding.

Response by GIAL:
GIAL places O&M contract on lowest cost model after due tendering. The model is fixed rate (minimum commitment) up to a certain volume and volume-based compensation beyond the given threshold limit. This is the prevailing model in industry, and it has evolved as a learning in post-COVID scenario. Operator needs some minimum commitment as he deploys his resources at airport irrespective of volume at airport. This model ring-fences operator from sudden drop in volume due to "force majeure" type of situations, and encourage bidders to give more competitive bids"

Further, GIAL has proposed the volume-linked fees methodology which was successfully adopted at other Adani Airports like Ahmedabad, Lucknow, Thiruvananthapuram and Jaipur. This methodology was verified on merits by the Authority and it is suitably used as benchmark for GIAL.

1.19. Observation 10(b):

Para 10.2.23 (Utility Expenses)
GIAL is requested to constitute a committee to verify the bills relating to Power expenses or submit a report on the same to AERA, if the same has already been conducted as part of Stakeholder comments / feedback.

Response by GIAL:
Report of the Committee on Power Expenses had been submitted to the Authority as part of stakeholders' comments by GIAL. Please refer Annexure-11 of comments submitted by GIAL in response to the CP.

1.20. Observation 10(c):
Para 10.2.41 & 44 (Cargo Operating Expenses)
It is requested that the Customs Cost Recovery Charges for Customs staff posted at Air Cargo complexes, courier terminals etc. as prescribed by the Central Board of Excise and Customs needs to be levied on custodians, and not on the airlines.

Response by GIAL:
In this particular case, GIAL is the custodian and also the operator of cargo complex. Recovery charges for customs staff are a statutory cost for GIAL for running the cargo facility and same is included as part of O&M expenses for tariff determination purposes.

1.21. Observation 10(d):

Para 10.2.54 Table 130 & 156

FIA appreciates the study conducted on Operations and maintenance expenses (O&M expenses) conducted for the Third Control Period, and AERA's revision based on rationalisation of each line item on the submitted O&M expenses by GIAL.

However, FIA respectfully urges AERA to further explore avenues to minimizing escalations across the expense categories. This action would significantly enhance our ability to manage overall costs more effectively.

It is further submitted that the current estimated O&M expenses necessitate additional scrutiny through an Independent Study in this Control Period. This measure is vital to prevent deviations from being carried forward to the Fourth Control Period, doing so would help avoid over recovery of ARR in the control period under the guise of True up.

FIA wishes to highlight that the same has been proven in cases of other PPP Airports like DIAL, MIAL, BIAL that while truing up the O&M in subsequent control periods, it always leads to over-estimation which has been observed leading to higher tariff in past control periods.

We further submit that, while the aviation sector, including airlines have incurred huge losses and are struggling to meet their operational costs, the Airport operator on the other hand seems to have incurred/will incur incremental expenses which may not appear prudent considering the significant losses incurred by the aviation sector.

In view of the aforementioned reasons, we request AERA to conduct an independent study for determining the true value of the O&M expenses before approving the tariff for the Third Control Period.

Response by GIAL:

The Authority has already rationalized the O&M expenses to Rs. 1,149 Cr against the expenses of Rs. 2,037 Cr submitted by AO. In respect to O&M. we have provided detailed comments in Chapter 6 of Comments to CP. To avoid repetition, we request that the same may be referred.

GIAL, being a new AO, needs to develop its workforce for the safe and secure functioning of the Airport. Aviation is a highly skilled and specialized sector and therefore there is an additional cost to bring in qualified people.

At present LGBIA has one operational terminal with an area of approx. 20,300 sqm and GIAL as part of transition has received CWIP of NITB which is scheduled to be commissioned in FY26. It is noteworthy to mention that area of NITB is 1,46,292 sqm i.e. 621% that of existing terminal. Further AAI erstwhile Airport Operator had proposed various airside projects which were linked to construction of NITB such as extension of runway, construction of part parallel taxiway, shifting of isolation bay, construction of link taxi way, storm water drain etc. Consequently, manpower, utility expenses and various other expenses for running these same are bound to increase the overall O&M of the airport.

Further, private Airport Operator is given various additional responsibilities under the Concession Agreement including the service level obligations and same will result in commensurate increase in expenses.

Also, with respect to FIA's comment on Airlines incurring huge losses and struggling to meet operational cost, we would like to submit the following:

- As per CP, "*The Authority welcomes written evidence-based feedback, comments and suggestions from stakeholders on the proposals made in this Consultation Paper.*". We observe that FIA has not provided any evidence along with their comments which would enable the Authority to examine whether the major reason for losses by the airlines is related to tariff/airport charges.

- The comments by FIA without any substantiation appear to have been made to create a prejudice against the airport operator. In fact, the proportion of airport charges to the total operational cost of Airlines is insignificant i.e. in range of 4-5% of total of expenses.
- We also observe from information available in public domain that Indigo, one of FIA members and the largest airline in terms of volume, had earned cash profit of Rs. 7,312 Cr in FY 22-23 after meeting all operating expenses which has doubled to Rs. 14,598 Cr in FY 23-24.

In view of the above, we feel there is no need to do any study on determining O&M expenses for TCP.

1.22. Observation 11 (a):

Para 11.2.4, 11.2.6 & 11.2.8

FIA submits that, AERA itself has observed (refer para 11.2.4, 11.28) the restrictive financial and technical parameters for evaluation of agencies under RFP for selecting a service provider by GIAL's parent company.

It was further observed that due to such restrictive nature set by GIAL's parent company there were limited bidders, which included GIAL's own related party. It is imperative to note that tenders were based on a revenue share model instead of competitive / low-price share model for tendering, which is not aligned with the spirit of the competitive market.

Accordingly, FIA submits to AERA, that there should be re-tendering of the Master services agreements, to attract more and more agencies and to encourage healthy competition.

Response by GIAL:

We have provided detailed comments in 7.1 of Comments to CP. To avoid repetition, we request that the same may be referred.

1.23. Observation 11 (b):

Para 11.2.10

It is observe that the non-aeronautical revenues projected by GIAL are significantly low / conservative. It is requested that GIAL explores all avenues to maximise revenue from the utilisation from the expansion of terminal building for non-aeronautical purposes.

As correctly observed by AERA in para 11.2.9, the non-aeronautical revenue projected by GIAL for Third Control Period is substantially lower as compared to other PPP airports and even lower than AAI figures of Second Control Period till COD itself, and from its projected O&M expenses.

Accordingly, we request AERA to mandate GIAL to enter into suitable agreements with concessionaires to exploit the potential/ growth of non- aeronautical revenue at GIAL.

In this regard we also request AERA to kindly undertake detailed examination with the assistance of an independent study to be conducted on the non- aeronautical revenue before the tariff determination of the Third Control Period.

Without prejudice to the above, we submit that increase in NAR is a function of increase in terminal building area, passenger traffic growth, inflationary increase and real increase *in contract rates. Despite all these factors increasing during the control period, on examination of the non-aeronautical revenue projected for the Third control period by AERA, it was noted that a conservative approach has been taken by AERA.*

It may be noted that, in other PPP Airports like DIAL, MIAL, BIAL, while truing up the NAR in subsequent control periods have always been the under- estimation and leads to higher tariff in the control periods.

FIA submits that Guwahati is widely recognized as one of the most popular tourist destinations globally and a gateway to the north-east Indian region. With airlines being the preferred mode of travel, the city's air traffic is expected to increase drastically.

Accordingly, we request AERA:

a) To mandate GIAL to enter into suitable agreements with concessionaires to exploit the potential/ growth of NAR at GIAL.

b) To kindly undertake detailed examination with the assistance of an independent study on the NAR before the tariff determination of the Third Control Period.

c) To issue directions for re-tendering of Master Services Agreements without restrictive nature of such RFPs and which may be based on a lower rate revenue model instead of revenue-share model.

d) To further determine and re-assess their estimates in line with other comparable airports. It may also include the impact of the tourism lineage that Guwahati has to increase their NAR in accordance with the submissions above.

AERA is requested to ensure no adjustments are proposed to nonaeronautical revenue which is not dependent on traffic but are derived from agreements with concessionaires.

Further in para 11.2.11, AERA has remarked that NAR projected by GIAL is significantly less than PPP airports - which are generally not less than 50% of the total O&M expenses of the respective airports.

In view of the above, we request AERA to allow higher non-aeronautical revenues being not less than 50% of the projected O&M expenses for GIAL, as approved by AERA.

Response by GIAL:

In the interests of its users and in its own commercial interests, Airport Operator will always endeavor to increase the non-aeronautical revenues to the maximum possible extent, however GIAL has to keep in view requirements of other regulatory agencies like BCAS. GIAL as Airport Operator has already entered into Master Concessionaire Agreement to exploit the potential/ growth of non- aeronautical revenue whereby a minimum amount of Non-Aeronautical revenues is guaranteed to the AO. This has insulated the Airport Operator from any future event which may negatively impact the Non-Aeronautical revenues.

The AO invited bids through a global competitive bidding process for selection of a Master Service Provider for Non-Aeronautical services at LGBIA. A third-party consultant was appointed to oversee the process adopted by the AO. The entire process was undertaken in a fair and transparent manner. Any further study on this would vitiate the very purpose of the open competitive bidding.

The last 3 years of pandemic clearly point to the fact that airport operators are highly vulnerable to passenger volumes and spending power of the customer as far as non-aeronautical revenues are concerned. In order to mitigate the impact of this volatility, AO has entered into a contract which ensures the minimum annual guaranteed amount is also available to airport operator.

We agree that the Authority should not make any adjustments on non-aeronautical revenue, which are derived from agreements with concessionaires and hence revenues projected based on Master Concession should be adhered. Further any comparison of non-aeronautical revenues with O&M costs is not rational and unwarranted.

Further, refer to our comments in point 7.1 of GIAL's comments on CP.

In view of the above, we feel there is no need to do any study on determining NAR for TCP.

1.24. Observation 12:

Tax Efficiencies:
Airlines are now paying separately for FIC and ITP which was earlier part of ATF pricing. Such FIC and ITP along with GST thereon becomes part of ATF pricing and suffers from Excise Duty and Sales Tax. The additional burden of non-creditable taxes becomes sixty-four (64) % - seventy (70) % on the airlines.

FIA would also like to urge AERA to devise methods or pass an order stating that FIC and ITP should be directly invoiced by fuel farm operator or the services providers to the airlines to avoid circuitous billing and for the sake of 'Ease of doing businesses and 'Transparency'. This will also help in avoiding unnecessary tax on tax to the tune of sixty-four (64) % - seventy (70) % sixty seven (67) % to Airlines.

Response by GIAL:

We believe the relevant Authority has been mindful of the undue tax burdens on various players in the aviation ecosystem. This is substantiated by the fact that fuel throughput charges were abolished by the Authority / MoCA in Jan 2020 and airport operators were compensated by way of an increase in landing charges and airlines were benefitted by way of lower tax burden. Having said the above, we will welcome any new steps that are taken by MoCA/GoI/ the Authority in this direction.

However, as far as billing of FIC and ITP charges is concerned, OMCs (not airlines) are the users of the open access facility and fuel farm operator is appropriately charging FIC and ITP charges to the users of the facility.

1.25. Observation 13 (a):

Para 14.2.2
It is submitted that, AERA has noted that "AO has on-going capital expenditure projects and other planned works, which have resulted in a higher ARR for the Third Control Period. Whereas the existing traffic base is not sufficient for the complete recovery of ARR in the current Control Period and this would require a significant increase in tariff", which in the present times is likely to adversely impact the recovery of air traffic.

Further, AERA has also observed and considered the "guiding principles issued by the International Civil Aviation Organization (ICAO) on charges for Airports and Air Navigation Services (ICAO DoC 9082), which lays down the main purpose of economic oversight which is to achieve a balance between the interest of Airports and the Airport Users."

This policy document categorically specifies "that caution be exercised when attempting to compensate for shortfalls in revenue considering its effects of increased charges on aircraft operators and end users". This should be applied particularly during periods of economic difficulty (i.e., airlines incurring adverse financial impact post Covid-19).

FIA requests AERA that, keeping in view the adverse financial health of the airlines as mentioned in this letter, no tariff shall be increased for this control period.

Response by GIAL:
In order to avoid repetitions on this matter, please refer to our comments in point 9.1 of GIAL's comments on CP.

1.26. Observation 13 (b):

Para 14.2.6
The tariffs on the AFS cargo should be significantly lesser than the tariff levied on General cargo.

FIA submits that:

1. AFS should have 50% or lesser rates from the Terminal.
2. Processing of such Cargo may be considered for direct access to the Aircraft, thereby avoiding the charges levied by Custodian.
3. Subsidize and incentivize a certain % of cargo tonnage processed out of AFS for better sustainability to Airlines, this may boost further AFS stations in terms of revenue as well.

Response by GIAL:
The rates proposed by FIA are without any scientific study. The Authority has already done a detailed examination of the matter in tariff determination of Lucknow, Ahmedabad and Thiruvananthapuram and Jaipur.

1.27. Observation 14 (a):

In accordance with the preamble of the National Civil Aviation Policy, which envisages to make air travel affordable and sustainable, AERA is requested to review the suggestions/comments on the regulatory building blocks as mentioned above which is likely to reduce the ARR. This will further ensure the lowering of tariff including UDF, which will be beneficial to passengers and airlines.

It is in the interest of all the stakeholders that the proposed excessive hikes in the tariffs be reduced and also in order to encourage middle class people to travel by air, which will help in sharp post-COVID-19 recovery of aviation sector.

It is the stated vision of the government to make UDAN ("Ude Desh ka Aam Naagrik") a reality and this can only happen if we have the lowest possible cost structure, such that we can bring more and more people to airports to travel by air.

Response by GIAL:
GIAL appreciates the vision of the Government to introduce UDAN scheme. We will continue to abide by all the orders of the Authority to boost regional connectivity whereby no landing charges are charged to Airlines and no UDF is charged to the departing passenger.

1.28. Observation 14 (b):

1. Landing Charges:

a) It is to be noted that, the proposed increase to the Landing Charges for all flights is between 170% to 250% approx., from the existing charges. In accordance with that, we request AERA to kindly consider rationalising the same.

b) Note 6 (a) to Landing Charges: We request AERA for further clarification on unscheduled flights operated by domestic scheduled operator as the same are currently being charged by PIA. There should be a clarification to this effect since the exemption is provided to domestic scheduled operators

Response by GIAL:
In order to avoid repetitions on this matter, please refer to our comments in point 1.1 of this document.

1.29. Observation 14 (c):
2. Ref: Notes to User Development Fee (UDF) Charges:
a) Collection Charges: We would like to invite AERA's attention to notes 1 of UDF charges in the Public notice 04/2024-25, wherein the rate of collection of UDF charges has been proposed to be reduced by GIAL from the current Rs. 5.00 per embarking passenger to Rs. 2.50 per embarking passenger. As airlines have not agreed to this reduction, we request AERA to consider the collection charges to be reverted to Rs. 5.00 embarking passenger, in line with other Airports. Collection charges also need to be published for arrival Passengers as well.

b) Further, AERA is kindly requested to consider that in light of the increasing administrative expenses due to inflation and other reasons (example - 5% inflationary / administrative increase each year), the collection charges may kindly be increased to keep pace with the proposed increase in UDF, as airlines only get a fixed rate, which results in disincentivizing the airlines.

Response by GIAL:
Collection charges paid to airlines is pass though expense for airport operator. Reduction in collection charges is in the interest of all airport users.
W.r.t. FIA's comment on collection charges for arrival passengers, the same is duly mentioned in the ATP submitted by GIAL.

1.30. Observation 14 (d):
c) Ref: Notes to User Development Fee (UDF) Charges:
We further request that in the Collection Charges, the entitlement by airlines for the same may kindly be against GIAL having received the 'undisputed' invoiced UDF amount within the applicable due date.

Response by GIAL:
As approved by the Authority for other airports, airlines' entitlement to collection charges should only be against full and timely payment of all outstanding dues.

1.31. Observation 14 (e):
Disembarkation: -
GIAL has also proposed UDF charges on disembarkation as well at the Airport. AERA is requested to kindly review this trend as this will be discouraging for passengers to take flights to Guwahati because of the increase is total cost to fly to GIAL.

Hence, it is submitted that the Authority keeping in view the principles of efficiency and reasonableness should not allow the UDF collection charges on disembarking passengers as proposed in the CP.

Response by GIAL:

Airport charges or revenues are drawn from Aggregate Revenue Requirement (ARR) determined based on various regulatory building blocks.

In the present case, true up value for AAI of approx. Rs. 173 Cr pertains to the pre-COD period which accounts for almost 10% of overall ARR.

GIAL has proposed levying some portion of UDF on disembarking passengers which will help in reducing the Aeronautical tariff determined towards Landing charges.

This process may also help in recovering ARR for this Control Period and put lesser burden on the Airlines and other Airport Users. Further, Airport facility is used by both embarking and disembarking passengers. However, the facility used by disembarking passengers is comparatively less as compared to those used by embarking passengers. Hence, comparatively a lesser amount of UDF is proposed for disembarking passengers.

Keeping in view the above, in the recent past, the Authority has approved levying UDF on disembarking passengers in case of brownfield airport like Mangaluru, Thiruvananthapuram and Jaipur and greenfield airport like MOPA.

In case the Authority agrees with the suggestion of FIA for not levying any UDF on disembarking passengers, we would request the Authority to adjust the same by suitably increasing the UDF of Embarking passengers and/or Landing Charges.

1.32. Observation 14 (f):

d) UDF effective from 1st September 2024 to 31st March 2027: -

i. Comment to note no. 1. of Collection Charges: Please note that the same is paid by airport operator to airlines separately after airlines raises an invoice against the same as a standard industry practice. We request the same practice is applied.

Note no.1 (b)- "However, no collection charge shall be payable by GIAL to the airline if the airline fails to make UDF invoice payment within aforesaid applicable time limit/credit period"

In view of the above-mentioned para, we recommend point no. (b) to be deleted, as the above paragraph is self-explanatory.

Response by GIAL:

Once GIAL receives the UDF amount within the due date as mentioned in the invoice; and there are no overdue on any account with GIAL, the collection charges due to the Airlines will be paid as per due dates mentioned on the invoice. However, no collection charge shall be payable by GIAL to the airline if the airline fails to make UDF invoice payment within the aforesaid applicable time limit/credit period. This is as per the existing provisions made in the Authority's order for other airports.

1.33. Observation 14 (g):

ii. There is no mention of Collection charges for PSF in the MYTP submitted by the Airport operator. In the event the PSF is subsumed in the UDF, then airlines may kindly be eligible to claim collection charges at 2.5% of PSF per passenger, is being done currently. If PSF is not subsumed in the UDF, then current practices may kindly be continued.

Response by GIAL:

When GIAL took over the operation in Oct-2021, there was only UDF in the tariff card and no PSF (facilitation) was mentioned in the then prevailing rate card. The same tariff card is carried forward by GIAL with the necessary approval of the Authority. As the PSF (FC) charges are subsumed in tariff and not collected separately from passengers. Hence, the question of collection charges on the same doesn't arise.

Further, with effect from July 1, 2019, Security component of Passenger Security Fee (PSF – SC) has been replaced by Aviation Security Fee (ASF) and this is being administered by National Aviation Security Fee Trust (NASFT) formed by MoCA. ASF billing is done by NASFT and payment is made directly by airlines to NASFT. GIAL is not involved in Levy, exemption and collection charges on ASF.

1.34. Observation 14 (h):

iii. It is requested to define the applicability or exemption of any of the tariff charges pertaining to RCS Flights which have been excluded.

Response by GIAL:

The exemption pertaining to RCS flights is already mentioned in the ATP submitted by GIAL as below:

"Flights operating under Regional Connectivity Scheme will be exempted from charges as per Order No. 20/2016-17 dated 31.03.2017 of the Authority from the date the scheme is operationalized by the GOI as amended from time to time."

1.35. Observation 14 (i):

iv. Note 3 to UDF Charges: "3. UDF (Domestic / International) will be determined and levied based on ultimate Destination in particular ticket / PNR."

It may be noted that, that it appears that implication of UDF will be determined on the basis of ultimate destination. However, we request GIAL to clarify that this will only be applicable in case of embarking passengers and not Disembarking passengers.

Response by GIAL:

It is hereby clarified that UDF for embarking passengers will be levied based on the final destination where the passenger will disembark For example: international rates of UDF will be applicable in case of GAU-DEL-DXB.

1.36. Observation 14 (j):

3. CUTE, CUPPS, CUSS:

As these are aeronautical revenues, we could neither find a proposal for the same in the Annual Tariff Plan submitted by the GIAL for the Third Control Period, nor any comment by AERA on regulating these charges in the CP for the Third Control Period. We would like to state that:

i. The current prices are excessive. Please note that the AAI tariff for the same services at 44 airports is Rs 35.05 per passenger which is much lesser than private entities. AAI chose a service provider based on a public reverse auction mechanism. As such the tariff of USD 0.90 per passenger at GIAL is too high, it should be same and in-line as at other AAI airports since all services provided in this regard are same. Please note that the high fees set a precedent for other private airports hence it is important to bring down the rate to be in line with tariff at AAI airports.

ii. whatever bouquet of services is agreed between the GIAL and the service provider, this is enforced upon the airlines.

iii. the airlines have no say on the prices (unbundling), even if the airlines do not require all the services; and *iv. the rates are in foreign currency at certain airports, making airlines vulnerable due to currency fluctuations. The same may kindly be published and applied in Indian currency only.*

v. there are differential CUTE charges for international and domestic pax without any substantial rationale, since the ICT/CUTE services used are same for both types of customers. Hence there should be only one uniform CUTE charge for domestic and international both passengers.

AERA is kindly requested to intervene and kindly regulate the CUTE, CUPPS, the AERA Act, with transparency to all stakeholders.

Response by GIAL:
At GIAL, the CUTE/CUPPS/CUSS (CUTE) charges are levied by third party concessionaire who in turn shares certain portion of these charges with GIAL. GIAL is not directly charging the users. The arrangement was existing before COD when AAI was operating the Airport, and it is novated to GIAL from COD onwards as per terms of the CA.

It is clarified that CUTE revenue has been considered Aeronautical and it has been suitably accounted for while determining the tariff card. Therefore, other aeronautical charges like landing, UDF etc. calculated to provide the recovery of ARR, as provided in the tariff card are arrived after reducing contribution of revenues from CUTE services from eligible ARR.

In simple terms, Present value of eligible ARR = Present value of Aeronautical Revenues other than revenues from CUTE services + Present value of revenues from CUTE services.

Any reduction in revenues from CUTE services will increase landing/parking charges by that amount as the ARR to be recovered is a fixed number.

In view of the above, we feel that there is no need for the Authority to intervene.

1.37. Observation 14 (k)

"4..Parking time will be calculated based on On-Blocks and Off-Blocks time as recorded at the Airport Operations Control Centre. (AOCC)."

Query: As per standard practice, 15mins time each after touchdown and before takeoff of aircraft is provided as an exemption. We would want to propose the same industry practice to be implemented here.

Response by GIAL:
On Block and Off Block time are much cleaner to monitor and is more relevant from a true parking time perspective unlike touch-down / take-off which is highly variable in nature.

1.38. Observation 14 (l)

ii. "6. In case of an aircraft being parked beyond 24 hours due to technical or any other reasons, the parking charges shall be levied on a weekly basis inline with the governing tariff order.

Query: Please clarify which governing tariff order is being mentioned above. Please provide the corresponding rate card.

Response by GIAL:

Reference is invited to the ATP submitted by AO wherein it refers to "this tariff order". Also, "governing tariff order" does not find any mention in the ATP submitted by AO.

1.39. Observation 14 (m)

iii. "5. For calculating chargeable parking time, part of an hour shall be rounded off to the next hour"

It is submitted that for calculating chargeable parking time, part of an hour shall be rounded off to nearest hour"

Response by GIAL:
We have found "Next hour" is a standard in tariff card for all Airports like BIAL, HIAL and AAI Airports. The statement was existing in the previous tariff card for the LGBIA Airport which was approved by the Authority when the Airport operations were managed by AAI.

1.40. Observation 14 (n)

5.There is no mention of Aviation Security Fee ("ASF") in the Annual Tariff proposal by GIAL. In this regard, we request AERA to take note of the AIC 09/2021 dated 19th March 2021 and to state the levy, exemption and collection charges on ASF to GIAL.

Response by GIAL:
We would like to clarify that Aviation Security Fee (ASF) is charged by National Aviation Security Force Trust (NASFT) and not by GIAL. Payment is made directly by airlines to NASFT. GIAL is not involved in Levy, exemption and collection charges on ASF.

1.41. Observation 14 (o):

6.Variable Tariff Plan for Scheduled Passenger Airlines
i. "New Route: A flight to a new destination that is currently unserved from Guwahati by any airline already operating at Guwahati. (Destination must be unserved for the previous 24 months)"

Query: We understand "Unserved" means no scheduled operations. Please confirm.

Response by GIAL:
The same is already duly clarified in the ATP submitted by GIAL as below:
"For removal of doubts, "Unserved" would mean "No Scheduled Operations".

1.42. Observation 14 (p):

7.AERA to review our comment at Sr. No. 4 (Traffic) above.

Response by GIAL:
GIAL is unable to find any comment related to traffic in Sl no 4 of FIA's comment, hence unable to comment on the said observation.

1.43. Observation 14 (q)

8.FIA observed that, there is no mention of Aviation Security Fee ("ASF") in the Annual Tariff proposal by GIAL. In this regard, we request AERA to take note of the AIC 09/2021 *dated 19th March 2021 and to state the levy, exemption and collection charges on ASF to GIAL.*

Response by GIAL:
Repetition of point by FIA. In order to avoid repetitions on this matter, please refer to our comments in point 1.40 of this document.

1.44. Observation 14 (r)

Landing charges:
a) AERA has proposed to increase the Landing Charges for all flights between 171% to 375% approx.- from the existing charges. We request AERA to kindly consider rationalising the same.

Response by GIAL:
Rates for Landing Charges, Parking Charges, UDF and other Aeronautical revenues are determined to achieve an overall ARR of approx. Rs. 1,771 Cr. Any change in any of the rates of aero revenue would have corresponding reverse effect on the other rates. And hence, in case Landing charges are reduced by the Authority, the corresponding increase to offset the differential revenue has to be met through UDF or other Aero revenues.

1.45. Observation 14 (s)

b) Note 6 (a) to Landing Charges: We request AERA further clarification on unscheduled flights operated by domestic scheduled operator as the same are currently being charged by Airport operator. There should be a clarification to this effect since the exemption is provided to domestic scheduled operators and not restricted to only schedule operations by them.

Response by GIAL:
As per the existing circular from MoCA, scheduled operations of less than 80-seater aircraft are exempt from landing charges. The non-scheduled operations irrespective of the operator doesn't fall under this category. In case the exemption for the same is considered appropriate by the Authority, the corresponding effect should also be duly noted and considered in calculation of billable traffic and other revenues.

1.46. Observation 15 (a):
Shrinkage in Control Period

FIA submits that the Hon'ble TDSAT Order dated 16 December 2020 for BIAL stated as follows: '100…However, there is substance in this grievance and AERA will do well to ensure that if delay is caused by the Airport operator, its consequences should not fall upon the users. Tariff orders should be prepared well in time so that the burden of recovery is spread over the entire period for which the order is passed…'

In view of the above, AERA is requested to ensure that airlines/passengers are not burdened in view of the apparent shrinkage in the period of recovery of the aeronautical tariff from passengers/airlines, as the AERA Tariff Order for GIAL - Third Control Period, will now be issued after the commencement of the Control Period i.e., 1 April 2022.

We submit that cost of operations for the airlines are increasing continuously every year and airlines are incurring losses in the current challenging scenario, even while airport operators have an assured rate of return on their investment. At the same time, it is projected by most agencies that over 1,200 new civil aviation aircraft will be inducted by airlines in India over the next 5 years. While economies of scale are a big factor for the airlines to keep the cost of operations low, this applies to airport operators as well.

With the huge increase in aircraft, there is bound to be huge benefits for the airport operators as well due to economies of scale.

Hence, we request AERA to conduct a study of the passengers and air traffic at selected airports taking data over the past 20 years wherein it may please be made transparent as to what is the cost of one take off separately to the airport operator and an airline, for various class of aircraft, at a periodicity of every 5 years (excluding the pandemic times period).

It is felt that cost of business is simply passed on to the airlines by some airport operators, as it appears that there are multi layered companies undertaking various activities at the same airport, which not only add to the cost of doing business, but also force airlines to pay tax on tax for availing services though multi-layered companies. This study will then make it evident who is actually bearing the cost of doing business at the airport, and whether the same is justified.

Response by GIAL:

It is to be noted that GIAL started commercial operations from 8th October 2021. As per clause 28.11.1 of the CA, GIAL shall have not less than 365 days from the COD to seek revision of the Aeronautical Charges from the Authority. The existing tariffs are extended till 30th September 2024 or till the determination of tariff for Third Control Period. GIAL had submitted its MYTP to the Authority on 28th July 2023 and complied with provisions of CA.

In view of the detailed exercise for review and rationalization of O&M expenses already conducted by the Authority, we feel that there is no need to conduct any such study relating to O&M expenses.

Further, It is noted that FIA has requested for independent studies on various building blocks without any substantial evidence-based feedback as part of their comments for individual building blocks. We would like to humbly submit that the tariff determination process has already been through various levels of due diligence and scrutiny by the Authority. Any further studies would entail longer due diligence time, thereby further delaying of the tariff order. Consequently, the tariff recovery period will reduce further with increased aeronautical charges, which will not be in the interest of any stakeholder including airlines.

1.47. Observation 15 (b)

B: Royalty

Any attempt to award the contracts by the airport operator on highest revenue share basis should be discouraged as it breeds inefficiencies and tends to disproportionately increase the cost.

It is general perception service providers has no incentive to reduce its expenses as any such increase will be passed on to the airlines through tariff determination mechanism process and indirectly airlines will be forced to bear these additional costs. There needs to be a mechanism for incentivizing the parties for increasing efficiencies and cost savings and not for increasing the royalty for the airport operator.

As you are aware, royalty is in the nature of market access fee, charged (by any name or description) by the Airport operator under various headings without any underlying services. These charges are passed on to the airlines by the airport operator or other services providers. The rates of royalty at the airport are as high as up to 45% for some services.

It may be pertinent to note that market access fee by any name or description is not practiced in most of the global economies, including European Union, Australia etc. Sometimes it is argued by the airport operators that 'Royalty' on 'Aero Revenues' helps in subsidizing the aero charges for the airlines, however royalty in 'Non-Aero Revenues' hits the airlines directly without any benefit.

In view of the above, we humbly urge AERA to abolish such royalty which may be included in any of the cost items.

Response by GIAL:

In case of LGBIA, there is no royalty or concession fee which will be recovered in case of cargo and fuel activities as these facilities will be managed and operated by Airport Operator only. As far as royalty of 45% on Ground Handling (GH) activity is concerned, we would like to state GH is an aeronautical service. Abolition or reduction in royalty will result in an increase in other aeronautical charges like Landing, Parking and UDF as ARR of AO as determined by the Authority is fixed. Further, we would like to state that selection of concessionaire through competitive bidding based on highest revenue share is common industry practice being followed by various airports in India and World.

2. Counter comments on comments from IATA

2.1. *True-up for 2nd control period (AAI)*

IATA agrees with AERA correcting AAI's asset allocation by using the independent study results, including the reallocation of common O&M expenses.

Response by GIAL:

In order to avoid repetitions on this matter, please refer to comments in point 1.3.2 and 3.13 of GIAL's response to the CP.

2.2. *Fair Rate of Return (FRoR)*

The Airport Operator has proposed a FROR of 14.76%, and although we appreciate the Authority reducing it to 12.21%, we believe that this is still on the higher side and does not reflect the business risk assumed by the airport operator, given the true-up approach adopted by AERA.

Response by GIAL:

In order to avoid repetitions on this matter, please refer to our remarks in point 1.16 above as counter on FIA's comments and also refer to comments in point 4.1 and 4.2 of GIAL's response to the CP.

2.3. *Non-Aeronautical Revenue (NAR)*

• NAR projected by the Airport Operator is 25% lower compared to the NAR generated in the previous control period when the airport was operated by the AAI. It should be noted that the previous control period includes 2 years which were severely impacted by COVID-19, at an airport which has major footfall of tourists having a natural propensity to spend at airports.

As seen in the case of AMD, LKO and TRV airport tariff proposals submitted by Adani Airports earlier, the NAR which is meant to cross-subsidize the Aeronautical charges, are similarly under-developed and under-projected in the case of GAU as well. AERA has correctly highlighted that the NAR projected is lower than when the airport was under AAI; and that the increase in non-aero activities with the terminal expansion has not been factored in. We appreciate AERA for closely overseeing this aspect while making the determination.

• Additionally, we once again highlight that the Airport operator GIAL has entered into a Master Services Agreement (MSA) with Adani Airport Holdings (AAHL), which is supposed to pay the GIAL a minimum guarantee amount of Rs. 21 Cr or 10% of the 'Gross Revenue', whichever is higher. The 'Gross Revenue' referred to in the MSA is actually the NAR of the airport – and under the hybrid till mechanism, 30% (and not 10%, or even an absolute amount of Rs. 21 Cr) of the NAR is to be used to offset aeronautical costs. While the Airport Operator's submission makes a mention of 'Revenue from Master Service Agreement', the component necessary for tariff determination purposes has to be 30% of total NAR; and not 30% of the 10% MSA Revenue Share (30% of 10% of total NAR is in fact only 3% of the total NAR earned). The current arrangement of including a Master Concessionaire between the NAR flowing to the Airport Operator, significantly reduces the level of effective NAR for the tariff determination by AERA and cannot be justified.

• IATA is concerned with the extremely restrictive criteria for bids for the Master Services Agreement which resulted in only 2 bidders, one of them being a related party. We appreciate AERA for highlighting the restrictive technical eligibility criteria of prior experience of 100,000 sqm of commercial space development/management, as well as the restrictive financial eligibility criteria.

• IATA urges the Authority to correct the Airport Operator's understanding by explicitly stating/confirming in the final Order that:

o 30% (in adherence to the hybrid till policy, and not any lower) of the total NAR of the Airport is to be recognized in offsetting aeronautical costs; and

o The level of 'Revenue from Master Service Agreement' earned by the Airport Operator is not material to tariff determination. This will help bring back the NAR from its current artificially low levels in the airport's current understanding.

• IATA would also expect that any shortfall in the NAR will NOT be trued up in the next control period.

Response by GIAL:
In order to avoid repetitions on this matter, please refer to our remarks in point 1.22 above as counter on FIA's comments and also refer to comments in point 7.1 of GIAL's response to the CP.

2.4. ***Tariff Card***

- *A significant increase has been proposed by the Airport Operator in its Tariff Card, both on landing & parking charges. Significant Capex additions in the 3rd Control Period are slated particularly from FY25/26 with the addition of the new terminal, runway, taxiway and apron, boundary wall, access road etc. It is important to ensure affordability while delivering the required capacity and service levels through stronger partnerships with airport users such as airlines etc.*

- *The UDF too has increased significantly. However, feedback from the Airport Users community in GAU suggests that the proposed tariff increase does not correlate to any facility enhancement at the existing Terminal 1.*

- *We request that AERA adopts the same approach as in the determination for other airports by moderating the increases to facilitate recovery in traffic and consider a significant reduction & to rationalize the Airport's current proposal for landing & parking and UDF charges.*

Response by GIAL:
In order to avoid repetitions on this matter, please refer to our remarks in point 1.44 above as counter on FIA's comments.

3. Counter comments on comments from Airport Operators (DIAL, AAI), Industry Bodies (APAO) and Other Stakeholders (HPCPL, DACAAI)

Airport Operators (such as DIAL, AAI), Industry Bodies (APAO) and Other Stakeholders (HPCPL) have supported GIAL's submissions and comments on certain key matters relating to estimation of Tariff and various Regulatory Principles etc.

- Comments from stakeholders including but not limited to:
  1. Cost of equity for each airport determined using CAPM should be applied instead of average of other PPP airports.
  2. Cost of equity allowed at 15.18% instead of 17.30% requested by AO.
  3. Cost of debt should be allowed at actuals i.e. 12% and not as a notional rate of interest of 9%.
  4. Exempted passengers to be reduced while finalizing tariff card.
  5. Consideration of actual Non-Aero Revenue instead of notional amount.
  6. To construct fuel farm facility with storage capacity of 4000 kl.
  7. Not to defer ARR to the next control period i.e. to allow 100% of recovery of ARR in this control period.
  8. To allow 16% for cost claimed towards technical services, PMC, Preliminaries and Preoperatives, Contingencies, Statutory approvals, Labor cess, Site-preparation, Insurance etc. as claimed GIAL.

- We also agree with AAI on their comment with respect to Rental Income from airline offices.

- DCCAAI has provided general remarks about the industry and its own point of view. There are no specific point raised in regard to the Consultation Paper. Further in response to para 7 and 8 raised by DCCAAI, GIAL submits that GIAL Cargo rates are on par with the the existing Cargo Service Provided present at LGBIA (AAI Cargo Logistics & Allied Service Company Limited).

GIAL has also submitted its detailed explanations and justifications on all the above matters as part of its response to the Consultation Paper. GIAL requests the Authority to consider the well-reasoned comments provided by GIAL which are duly supported by the aforementioned stakeholders.