

ASSOCIATION OF PRIVATE AIRPORT OPERATORS

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APAO/ MOCA/2012-13/01

Date: 11 June 2012

Mr. Oma Nand,

Under Secretary to Government of India,
Ministry of Civil Aviation,
Rajiv Gandhi Bhawan,
New Delhi

Subject: Draft approach paper on Economic Regulations of Airports in India

Dear Sir,

A kind reference is invited to the Draft approach paper on Economic Regulations of Airports in India issued by MoCA seeking comments from all stakeholders. The comments of APAO are furnished below. We congratulate the Ministry of Civil Aviation for drafting a progressive and forward looking economic regulation for non-major airports in India.

APAO has been constantly pleading with the Ministry and the Regulator (AERA) to have a regulatory philosophy which should be light handed and in a manner to facilitate the much required airport development in India by leveraging appropriate entrepreneurial synergies and bringing investments, efficiencies and competition. The regulatory prescription should also be congenial for attracting investments into the sector and encouraging the growth of non-aeronautical income. The airport in India plays a very important role in the socio economic development of the country. Out of the 1.2 billion inhabitants, the population who availed air travel even for once in their life time is less than 5%. A Huge potential is before us. This shows that India may require 300-400 more airports to be set up to cater the ever increasing traffic growth. Significant investments had been made by the 5 PPP Airports and are providing world class service to the sector. Further investments are required to expand the Airport infrastructure capacities to take India to the third position of the world by 2020. The regulatory environment plays a crucial role in attracting the much required investments.

We agree with the MoCA's view that the regulation should be simple, transparent, progressive, equitable and predictive. Perhaps, in addition to the above principles, the investors also look for certainty and consistency of regulation. Clarity on key issues which affect the investors is critical and must be addressed in advance for a healthy growth of the sector.

Our detailed comments are as follows:

1. Page 4 Para 6: Need for Economic Regulation

MOCA Proposal:

While AERA has been authorized to fix the tariff for major airports, its charter does not mandate it to devise its philosophy in a manner, which will provide enabling environment for investment in airport infrastructure in the country at large. Also the non-major airports, not under the purview of AERA, do not currently have any laid down policy for economic regulation. Therefore Government has to come up with a philosophy of tariff regulation at these airports, in order to have a balanced approach for both investment environment and passengers' interest.

APAO Comments:

We believe that regulatory intervention must be an exception and not the rule. The new approach paper to a great extent meets our expectation as regards the non major Airports are concerned. We have seen that there is an attempt to clarify some critical issues in the approach paper as far as the economic regulation of non-major airports in India are concerned. However we feel that not enough clarity has been given on the uncertainty prevailing in respect of the existing 5 Major PPP Airports.

The Ministry of Civil Aviation should take this opportunity to clear the ambiguities surrounding the regulation of the existing major PPP Airports which are under the AERA's regulation. MoCA should clearly spell out its own position on the following issues of key importance in respect of the existing major PPP Airports.

1. Regulatory Till Approach.
2. Definition of Aero and Non Aero.
3. Cost of Equity.
4. Return on Quasi Equity.
5. Traffic forecast.
6. True-up methodology etc.
7. Viability of Major private Airports

MoCA should support a Dual till/Light touch regulation to attract the much required private investments. Across the world there has not been a single privatization under Single till (except UK). As such adoption of Single till as determined by AERA will be a serious deterrent for future investments in this vital sector.

It is mentioned that AERA is not empowered to devise regulatory philosophy in a manner, which will provide enabling environment for investment in airport infrastructure in the country at large. Hence, there is a requirement that Ministry

should intervene and give a clear policy direction to remove any uncertainties and misinterpretations.

The draft approach paper should therefore cover and clarify certain contentious issues which are ongoing due to approach adopted by regulator for major PPP airports. It is the prerogative of the Central Government to issue directions or make policy even for major airports in order to bring clarity, consistency and economic rationale and above all to ensure that the existing concession agreements are fully honoured.

Though an argument could be put forth that this draft approach paper deals only with non major Airports, we strongly feel that clarity will be required on existing major PPP Airports also to avoid any misquoting / misinterpretations.

2. Page 7 S.no 3 Para 6

MoCA Proposal:

The aeronautical income of an airport operator out of activities like cargo, ground handling and fuel supply to an aircraft are based on the concession fee or the revenue share, in a similar manner as any other non-aeronautical activity at an airport. As a general policy, all the revenue sources at an airport apart from the aeronautical revenues discussed earlier, i.e. ANS charges, PSF (security component) and DF (if any), should be accounted for in the non-aeronautical fill, which would therefore include, the fuel throughput, F&B, car park, city side etc.

APAO Comments:

The paper have discussed at length about the aeronautical and non-aeronautical services and charges. However clarity is lacking about the Ministry's position on the exact classification of aeronautical/non-aeronautical services and charges. For e.g. In Page 7, of the approach paper it was mentioned that "The aeronautical income of an airport operator out of activities like cargo, ground handling and fuel supply....." This position of the Ministry is not correct. As per the OMDA Agreements and the SSA these services are classified as non-aeronautical. Hence, Cargo, Ground Handling and Fuel revenues should be treated as Non-Aeronautical along with other commercial activities.

It may please be noted that the latest edition (Ninth Edition, 2012) of Doc 9082 has been published by ICAO and it would be worthwhile if it is considered in this paper.

It may further be noted that Doc 9082 nowhere specifies that fuel concession fee is an aeronautical charge. On the contrary, it very clearly mentions that it is concession fee. Kindly refer to definition of "Fuel throughput charges" and Revenues from non-aeronautical sources in Appendix 3 of the Doc 9082 (reproduced below):

'Fuel "throughput" charges. A concession fee levied by an airport on aviation fuel sold at the airport.'

'Revenues from non-aeronautical sources. Any revenues received by an airport in consideration for the various commercial arrangements it makes in relation to the granting of concessions, the rental or leasing of premises and land, and "free-zone" operations, even though such arrangements may in fact apply to activities that may themselves be considered to be of an aeronautical character (for example, concessions granted to oil companies to supply aviation fuel and lubricants and the rental of terminal building space or premises to aircraft operators). Also intended to be included are the gross revenues, less any sales tax or other taxes, earned by shops or services operated by the airport itself.'

From the above, it may be observed that any revenue from the concession granted to supply aviation fuel is non-aeronautical revenue as there is no service being provided by the airport.

3. Page 7 Point 3 Para 5

MoCA Proposal:

The PSF (security component) is a specific charge for the provision of security at an airport and it would be desirable to treat it separately. The PSF (facilitation) can be bundled together with the UDF, for greater clarity. Thereafter the amount of PSF (security component) can be determined after due diligence of the security requirements at an airport.

APAO Comments:

PSF Security may be treated as a cess of the Government and no taxes including service tax and income tax should be levied on the same. In case of PSF-Facilitation component, we agree that the same is synonymous to User Development Fee (UDF) and is to be levied as passenger charges.

4. Page 7 Point No 3 Para 3

MoCA Proposal:

The pre-funding charge, which in India is commonly known as the Development Fee, has also not been considered for the purpose of this Policy as it is a levy of specific nature for pre-funding a project to the extent of shortfall of fund. There is specific provision in this regard under the AAI Act, 1994.

APAO Comments:

The provision relating to levy of DF are defined under the AAI Act and the DF rules framed there under. They clearly addresses/clarifies the scope and event under which the Development Fee (DF) levy is allowed.

However, in the long run it is evident that DF reduces the burden on the passengers and therefore the recovery of capital cost through DF should be encouraged.

5. Page 8 Para 1

MoCA Proposal:

The instant policy would therefore only explore to find an appropriate regulatory till to arrive at a per passenger yield of the aeronautical charge, so as to ensure a fair return on the investment made for provision of these services. The aeronautical charges which would be impacted by this policy would include the landing, housing or parking charges (airline specific charges); and the UDF (passenger specific charges).

APAO Comments:

The regulatory till most suited to attract investments in this highly capital intensive sector is Dual till/Light touch. This also incentivizes the Airport operator to provide better service quality. We agree with MoCA views that the only charges that should be regulated are landing, Parking and Housing, ANS charges, PSF (Security Component) and DF (if any).

6. Page 8: Regulatory Asset Base (RAB)

MoCA Proposal:

Regulatory Asset Base: *While calculating the aeronautical tariff, it would be important to carefully determine the Regulatory Asset Base (RAB), on which the fair return is to be allowed to the airport operator. However, prescribing what should constitute the RAB would not be desirable from the policy perspective, as the RAB would be dynamic and airport specific. In case of AAI if the entire AAI setup is considered as a single system, then determination of RAB would be very different. It would therefore be proper to leave the issue of determination of RAB at an airport to AERA or the Government, as the case may be, at the time of determination of tariff.*

APAO Comments:

It was mentioned that "It would therefore be proper to leave the issue of determination of RAB at an airport to AERA or the Government as the case may be at the time of determination of tariff." We submit that this position will lead to ambiguity and different interpretations in future. A clear and transparent policy as regards to what will constitute the RAB and/or the approach to determine RAB is important to bring clarity into the system. Uncertainty to this effect deters investors from investing into the project.

7. Page 8: Rate of Return

MoCA Proposal:

It would be essential to establish a rate of return on the RAB, so as to build in adequate incentive for the investors in the airport infrastructure. However, prescribing a specific rate of return in the Policy document may not be desirable. This is because the fair rate of return is dependent upon several extraneous variables, and is subjective in nature. Hence the determination of fair rate of return should be left to the regulator, i.e. either AERA or the Government, as the case may be, at the time of determination of tariff.

APAO Comments:

It was mentioned that determination of a Fair Rate of Return should be left to the regulator at the time of determination of tariff. We submit that in the recently concluded tariff determination exercise of DIAL, 3 international reputed organizations / agencies have recommended Cost of Equity of 20-25%. However the regulator has decided a Cost of Equity of 16%. Hence the position that determination of Fair Rate of Return without involving the airport operator will not be a workable solution. Our suggestion should be that regulator must define a risk framework that identifies various risks inherent in the airport business and involve the airport operator while deciding the Cost of Equity, Rate of Return etc.

Indicative cost of equity rates during the bidding process should at least be considered. Otherwise there will be a requirement to suitably adjust the Revenue share. For the purpose of clarity and certainty, it is essential that minimum rate of return to be allowed is mentioned in the policy itself. Otherwise any prospective investor will not know what would be the minimum rate of return. Leaving this important component of tariff open, till tariff proposal is filed and rate of return is determined by the regulator is highly undesirable. Any rate of return beyond minimum specified limit may be allowed based on factors relevant to each case. This will provide necessary clarity to potential investors.

8. Page 24: Regulatory Till

MoCA Proposal:

The general philosophy in determination of any regulated charge is cost plus a fair return on the investment. However, for the purpose of aeronautical tariff, it would be relevant to factor in the income from other services as well. The classical argument has been that the other revenue streams are a manifestation of the aeronautical traffic, and it should be factored to reduce the burden on the passengers. The policy issue would therefore be to determine the extent to which the other streams of revenue should be accounted for the determination of aeronautical tariff.

APAO Comments:

The only regulatory till which can attract investments is Dual till/Light touch. This also leads to good quality airports.

It was mentioned in the concession agreement with BIAL and HIAL that the airport charges shall be consistent with ICAO policies. The document 9082 recommends that in determining the cost basis for airport charges, contribution for non-aeronautical revenue accruing from the operational airport to its operators should be taken into account. It is also mentioned that the document has not specified the extent to which the non-aeronautical revenues should be taken into account. While this is the present position and the Ministry itself admits that there is no clarity to what extent the non-aero revenue should be taken into account, this uncertainty will continue to remain even for future. We expected that at least in this approach paper, Ministry will clarify its stand by specifying that there is no cross subsidy taking into account the Indian context in respect of all Airports except Delhi and Mumbai.. It is also a known fact that ICAO does not propagate single till, ICAO propagates that charges should be cost based. Structure of concession agreement signed with operators implies Dual Till.

AERA has come out with a policy of Single Till post privatization in respect of major PPP airports (excluding Delhi and Mumbai). In the concession agreement it is clearly laid down that the only regulated charges shall be Landing, parking and Housing and UDF. However, under the Single Till AERA is indirectly regulating all airport revenues by fixing the return allowed on even non-aeronautical investments. It is suggested that a policy decision by the Government on these airports, directing Dual till be adopted should be made which is critical to regain investor confidence.

Large investments are needed to operationalize additional 170-200 smaller airports, if by the year 2020 aviation market in India is to grow and meet the expected passenger and cargo growth demands. Smaller airports need incentivization as the returns during the initial 5-10 years may not be operationally viable enough and can be negative. In such a background a Dual Till/light touch approach even beyond traffic of 0.5 million p.a. will provide the necessary fillip to attract investments instead of the proposed Hybrid till.

9. Page 23 Point 1

MoCA Proposal:

The different perspectives on economic regulation of airports in India arise from the fact that there is a wide diversity in characteristics of airports in India. While uniformity of policy is necessary to create a level playing field, it may be noted that each 'category' of airports has unique challenges associated with it. It is therefore imperative that we develop a regulatory approach that addresses these unique challenges while being simple, transparent, progressive, equitable and predictive.

APAO Comments:

Airports in India can attract investment only under Dual till. The proposed Hybrid Till (30% cross subsidization) as practiced at New Delhi and Mumbai airport has got inherent flaws. The methodology in such concessions is not Hybrid Till but a Shared till. In the Hybrid Till, the cross subsidization is from Profit (EBIDTA) level. The Hybrid Till practiced worldwide follows this methodology and not the one adopted at IGIA, New Delhi and CSIA, Mumbai. The effect of cross subsidization at Gross revenue level leads to airport having to resort to very high prices both of aeronautical and non-aeronautical to keep itself afloat.

However, given the very low level of Non-Aeronautical revenues anticipated in non-major airports and also need to incentivize investments in smaller airports, it is only a Dual till or light touch approach which can attract investors / investments and make their operations economically viable.

Privatization of any AAI airport should also be under Dual till or light touch approach to attract investor interest and make their operational economically viable.

10. Page 23 Para 2

MoCA Proposal:

As mandated by ICAO, the regulatory approach for airports should derive from the specific objectives and context of each country. India's policy framework for airports should therefore be aligned to the country's vision of becoming the third largest aviation market by 2020.

APAO Comments:

We agree with the ICAO principles that each country should adopt its own policy framework / Regulatory approach for the Airports.

11. Page 23 Para 3

MoCA Proposal:

The regulatory philosophy should encourage the world's best airport developers to invest in India's airports. It should also judiciously balance the expectations of airport users and investors. Excessive profit booking by investors may lead to adverse reactions from users and society at large. It may also jeopardize India's aspiration to become a leading aviation hub.

APAO Comments:

We reiterate that a Dual Till/Light touch approach is critical for investor interest. This will only ensure a judicial balance of expectations of Airport users and Investors.

12. Page 23 Para 4

MoCA Proposal:

While airports can be treated as monopoly assets from a geographical perspective, global experience shows that airports cannot charge tariffs of their own free will. The profitability of airports comes from traffic volumes and the origin-destination traffic does not suffice. Airports compete with each other to become a preferred hub for transfer and transit passengers. This gives them additional landing and parking charges, passenger fees and revenues from retail sales.

APAO Comments:

We agree that airports have to compete amongst themselves for Hub traffic and cannot charge any monopolistic pricing which will affect their traffic and growth.

13. Page 23 Para 5

MoCA Proposal:

Thus, while proposing the regulatory approach for airports, the impact of market forces cannot be ignored. If airports charge excessively and create an adverse impact on the passenger throughput, airlines may reduce or stop their flights to the said airport, putting the significant investments to risk. Airport owners are cognizant of this limitation. Further, to reduce the impact of the aeronautical charges, the airport operator should undertake all possible mitigating measures, like lean capital expenditure, lower operating costs, exploitation of the non-aeronautical revenue streams and enhanced benefits to the airlines and air passengers in order to achieve higher aeronautical revenue.

APAO Comments:

Under a single till an airport has an incentive to over spend and to get into activities which may not be profitable but seek higher RAB and Return adding to the burden of the passengers. However, under Dual till since additional footfalls has the potential to provide additional Non Aero revenue to the airport there is an incentive to keep the aeronautical charges low and to keep investing in aeronautical assets for enhancing the service quality and passenger convenience and comforts.

14. Page 24 Para 7

MoCA Proposal:

Regulatory Till - *Application of single till system at an airport may hurt its financial viability and may discourage investments in airport infrastructure. On the other hand, applying the dual till approach to the Airports may not be fair to passengers who do contribute to non-aeronautical revenues accruing from retail, advertising, car parking etc. Therefore, the regulation by the Ministry of Civil Aviation*

shall be under the hybrid till approach, where 30% of the non-aeronautical revenue shall be accounted for, to arrive at the target aeronautical revenue for an airport.

However while accounting for non-aeronautical revenues, due care needs to be taken in case of these non-metro Greenfield airports, which are being developed as aerotropolis. In such airports, invariably the concerned State Governments concessions allow the airport operator to leverage major portion of the land at these airports for non-airport related activities, which has no correlation with the passenger traffic at these airports. Hence the revenue from such non-airport related activities needs to be ring-fenced while accounting for the non-aeronautical revenue in calculation of the aeronautical charges.

APAO Comments:

We agree that under Single till airport can never be viable. Non Major airports have long gestation periods and need incentivization to attract investments and make them economically viable. The non-major airports in India can attract investment only under Dual till/light touch approach. The proposed Hybrid Till (30% cross subsidization) as implemented at New Delhi and Mumbai airport has got its inherent flows. The methodology used is not true Hybrid Till but a Shared Till. In the true Hybrid Till, the cross subsidization is from Profit (EBIDTA) level. The Hybrid Till practiced worldwide follows this methodology and not the one adopted at IGIA and CSIA. The effect of cross subsidization at Gross revenue level leads to airport having to resort to very high prices both of aeronautical and non-aeronautical to keep itself afloat.

Using the revenues from real estate development/reduction of its value from RAB for cross subsidization of aeronautical charges will make the project unviable and unattractive for investors. And as such, real estate should be completely outside the regulatory purview and should not be considered while fixing tariffs. It would be better if abundant clarity is provided under this chapter that income from real estate development will be ring-fenced and therefore any income or expenditure from real estate will be out of purview of regulation.

Even in case of an airport reaching 1.5 Million passengers per annum , light touch approach should be adopted. Worldwide airports are moving towards Dual till / light touch and we should also adopt the same methodology.

Financial viability is extremely important for survival of the Airport sector which is open for private participation. Several airports despite having huge potential are financially unviable. The financial unviability usually arises from long gestation period and limited financial returns. It is also caused because of the inability of the Airport operator to increase the user charges to commercial levels. There should be firm commitment from the government to support such projects by providing a progressive regulatory philosophy like Dual Till.

Looking at the quantum of investment required in the airport sector there is a necessity to make the sector attractive for investors by adopting flexible and positive policies. While it is appreciated that the regulator in other infrastructure sectors incentivize the private investment by adopting progressive policies, in the airport sector the regulatory regime do not even consider return on security deposit money, work in progress etc, where there is huge opportunity cost for the operator. Even the risk profile of airports and the aviation sector is cyclical in nature and the volatility of cash flows is higher. It is also an admitted fact that the airport risk is highest among infrastructure sectors. Hence to make the airport sector financially viable, the private investors must be provided sufficient incentives to enter the sector and more importantly they should be assured that any incentives promised by the government would be honored in letter and spirit under the regulatory mechanism.

15. Page 24 Para 9

MoCA Proposal:

Existing PPP airports, both Brownfield and Greenfield are being regulated by AERA and have separate Concession Agreements/State Support Agreements entered into with the Government, which lays down the philosophy of economic regulation. As per the AERA Act, while determining the tariff at these airports, AERA has been mandated to take into consideration the concessions offered by the Government. Hence, at this stage, this Ministry may not like to intervene in the matter.

APAO Comments:

It was mentioned that "As per the AERA Act while determining the tariff of these airports, AERA has been mandated to take into consideration the concessions offered by the Government. Hence, at this stage this Ministry may not like to intervene in the matter." As you are well aware that the statement "take into consideration" is always subject to different interpretations and will not give the required clarity. Ministry should very clearly mention that while determining the tariff AERA has to adhere to all the commitments made in the OMDA and SSA agreements by the government. We are also aware that AERA in their regulatory philosophy for major airports has taken the shelter of this statement (take into consideration) to adopt Single Till. According to them "taken into consideration" of Non Aero Revenue for a 100% cross subsidy will still satisfy the provisions of AERA Act.

As discussed in the earlier section, MoCA should clear the ambiguity surrounding the regulation of the existing major PPP airports which are under AERA's regulation. Ministry should clearly spell out with its own policy direction on the following issues of key importance:

1. Regulatory Till Approach.
2. Definition of Aero and Non Aero.
3. Cost of Equity.
4. Return on Quasi Equity.

5. Traffic forecast.
6. True-up methodology etc.
7. Viability issue of major private airports

For the Green field airport like Hyderabad and Bangalore as per the existing concession, the only charges that should be regulated are landing, Parking, Housing and UDF. However, under the Single Till AERA is indirectly regulating all airport revenues by fixing the return allowed on even non-aeronautical investments.

In the case of CIAL it does not have concession agreements like SSA and OMDA, Concept of Market value of land (owned by CIAL) for assessing RAB is not correct and needs to be reconsidered. Exclusion of land at Market Value may even result in negative RAB, putting the existence of the Company at stake. Hence, It is suggested that a policy decision by the Government on these airports directing Dual Till be communicated which is critical to regain investor confidence and is extremely important.

The policy should also address the form of economic regulation that will be applicable once AAI non-metro airport also come up for privatization.

16. Page 24 Para 7

MoCA Proposal:

Greenfield Airports – non-metro, non-AAI: Development of new Greenfield airports is necessary to improve air-connectivity into the interiors of the country. These airports face the risk of high capital investments and low traffic in the short term, which may affect their financial viability. Such airports may be provided incentives by the central and/or state government like fiscal or monetary assistance, low cost debt, land for commercial exploitation, etc.

Regulating the Greenfield airports would imply that the government has to ensure that the investors thereof receive a fair return on their investments – something that may put significant liabilities on the government.

Based on a careful analysis of all options, the proposed regulatory approach for the non-AAI, non-metro Greenfield airports is as follows:

(a) Such airports shall have a light handed regulation for five years from the start of airport operations. During this period, each of these Airports would fix appropriate tariffs. after carrying out thorough stakeholder consultations in a transparent and well documented manner. The Ministry of Civil Aviation will be informed about the tariff so fixed. before the commencement of airport operations, and thereafter immediately, in case of any change.



(p) After completion of five years of operations, the airports in this category will be regulated as under:

The light handed regulation will continue till these airports achieve an annual throughput of more than 0.5 mppa.

When the annual throughput of these airports is between 0.5-1.5 mppa, the tariffs of these airports shall be regulated by the Ministry of Civil Aviation. This determination of tariff shall be done by the Ministry of Civil Aviation once in five years, after due diligence and stakeholder consultations in a transparent and well documented manner.

When the annual throughput of such airports crosses 1.5 mppa AERA would regulate.

APAO Comments:

Greenfield airports require large investments and have long gestation periods. The light handed approach for only five years is inadequate and will deter the investors from investing into such projects. Since the airport is Greenfield, user consultation will not be possible as it will be difficult to define the users. Additionally, the volume at these airports are not sufficient to garner investors interest and a Dual till approach/light touch in totality is the only way such projects can take-off.

17. Page 26 Para 13

MoCA Proposal:

Greenfield Airports – Dual/ Multi Airport systems: As India's air traffic grows, certain cities may find their airports constrained for further growth. They may require a new airport in close proximity, say, within a 150 km aerial distance, of the existing airport. The second airport should be planned well ahead of time, when the current airport saturates in terms of capacity.

While the new airport would have an apparent disadvantage of higher capex, greater distance from the city centre and the need to build its own traffic and non-aeronautical from the scratch, it would also have an advantage over the existing airport in terms of an open slot register, modern infrastructure and improved multi-modal connectivity. All this may help the new airport to attract traffic from the catchment area of the existing airport.

The dual/ multi airport system, in the long run, may provide a market competition, and therefore a power of choice to the passengers. The traffic distribution between the two airports would be decided by the Government. Ideally traffic beyond the saturation capacity of the existing airport should be allocated to the new airport, else, unhealthy competition between the two can destroy both.

However, in the short run, the newer airport in the dual airport system would need a cushion period to catch up with the existing airport.

The proposed regulatory approach for Greenfield airports in Dual/ Multi airport systems is the same as mentioned in para 12 above. However, while determining the tariffs, the Ministry of Civil Aviation/ AERA shall ensure that a level playing field is maintained for the Greenfield airport vis-à-vis the older airports.

APAO Comments:

Duplicity of infrastructure, especially where regulation exists to control dominance, is not in the interest of all stakeholders including airport users and also it will be a national waste. Duplicity of infrastructure leads to higher usage charges and is against principle of optimum utilization of scarce infrastructure. Further this deters investors and capital will shy away. However as rightly pointed out, a second airport may be needed where the current airport is constrained and cannot be expanded further to take care of needs of traffic growth. Hence a decision by the government on a second airport needs robust traffic forecasts and stakeholder involvement and consultation. There are examples worldwide wherein creation of a second airport resulted in financial instability of both the airports.

The consultation paper has mentioned that in case of Dual/Multi Airport systems, traffic distribution between the two airports would be decided by the Government. This is completely an unacceptable proposition, especially in case of existing airports under PPP where agreement does not mandate such distribution. Such mention in this document would be a cause of future litigation hence it needs to be corrected.

This should be left to market forces to enable both airports to decide traffic/pricing in line with their business outlook. The second airport may need to factor a cushion period in the initial years to absorb traffic ramp-up.

18. Page 27 Para 14

MoCA Proposal:

Exclusive Cargo Airports may also be subjected to light handed regulation as outlined above.

APAO Comments:

We agree that the Cargo airport should be subject to light touch regulation. However in case these airports are competing with existing airports, the existing airports shall need to be compensated for the losses.

19. Page 27 Para 15

MoCA Proposal:

When an airport crosses the jurisdiction, i.e. from being regulated by the Ministry of Civil Aviation it starts getting regulated by AERA on achieving an annual throughput of 1.5 mppa, the Government can issue directions to AERA, on case to case basis, for continuation of the economic regulatory philosophy through which the airport was being regulated by the Ministry of Civil Aviation.

APAO Comments:

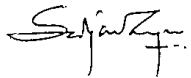
MoCA should clearly specify in the policy that the airport, even when it is designated as a major airport under AERA Act, would continue to be regulated under Dual Till/Light touch approach and MoCA shall give suitable direction to AERA in this regard otherwise this will act as a major disincentive/deterrent for Airport Operator to enhance the capacity beyond 1.5 mppa.

We respectfully request the Hon'ble Ministry to take into account the above concerns of the airport operators while finalizing the approach paper so that there is no uncertainty or ambiguity on any of the issues with respect to the existing major PPP airports in India as well as future Airports. It is the prerogative of the Central Govt. to make policy and issue directions, if required, even for major Airports in order to bring clarity, consistency, economic rationale, financial viability and to ensure that the concession agreements are fully honored.

We would be happy to work with the Ministry on all the above issues in the overall interest of the sector's growth and economic viability particularly in the context that the international investor community is watching how the regulatory landscape will evolve in India.

Yours Sincerely

For Association of Private Airport Operators



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