



APAO/AERA/2015-16/Format

Dated 21 December 2015

The Chairman

Airports Economic Regulatory Authority of India (AERA)
AERA Building, Administrative Complex,
Safdarjung Airport, New Delhi – 110 003

Subject: Tariff submission in respect of Aeronautical Services provided by Airport Operators, providers of Cargo, Ground Handling and Supply of Fuel at the Major Airports for the 2nd Control Period – Proposal to change formats

Dear Sir,

A kind reference is invited to your letter F. No. AERA/20019/CGF_G/2010-11/Vol-III dated 2nd Dec 2015 with regard to Tariff submission in respect of Aeronautical Services provided by Airport Operators, Providers of Cargo, Ground Handling and Supply of Fuel at the Major Airports for the 2nd Control Period. The Authority has proposed certain amendments in the already established tariff Determination mechanism implemented vide the AERA Direction no. 4/2010-11 dated 10.01.2011 and Direction no. 5/2010-11 dated 28.02.2011.

We would submit that the proposal of AERA will have wide ranging impact on all the stakeholders who provide services at Airports and will take away the flexibility to offer customized tariff especially in view of existing competition prevailing in the CGF services at the Airport.

However, we welcome any modifications required in the existing system to improve tariff reporting by various operators. This should not be at the cost of compromising the commercial interests, as well as discount pattern, the standardization of which will affect the competition in the market. Our considered view would be that there cannot a standard format for all the Airports. Each Airport should be given the freedom to design and report the tariff according to the market conditions and the competition prevailing in that particular Airport. However this should be within the overall cap/ceiling fixed by the Authority. If at all the Authority decides to implement a new format then, the proposed format requires several amendments/modifications.

The following are our specific suggestions:

- 1 In today's competitive scenario Airports are offering various customized products to Airlines and these services are not just limited to landing and parking. In order to provide these services the Airport Operator provides customized rate card and at times it may also offer a volume based discount. If we follow a standardized rate card for all the Airports, than it takes away the incentive of product customization which is so essential in today's dynamic aviation industry.

Worldwide, discounted rates are offered at airports to manage the scarce air space. Some airports even provide discounts at the off peak hours to moderate the peak hour rush. The aforesaid discount scheme should be incorporated in landing charges as an option for the airport operator to enable de-peaking of its constrained infrastructure. As such the proposed format for rate card should provide the flexibility to incorporate any such requirements of the airport operator. The present format being proposed restrict any innovative tariff offerings by the service providers.

- 2 The Airport operators and ISP's may charge different rates for different services wherein the aggregate revenue requirement remains within the overall permitted amount. The Authority can always examine such tariff offerings to ensure above compliance and not look at the detailed charging mechanism. This will only facilitate further growth and offering of multiple services rather than restricting to only one set of service to all customers who look for variety of offerings.

Further, we would also like to draw your attention towards the Clause 13 of the AERA Act wherein the Act also captured the possibility of different tariff structure for different Airports.

- 3 Some key observations in "Standardization of Tariff Card for Airport Operator" is as follows:-

a. Sub point (e) of landing charges under the above format , the Authority has also exempted an aircraft with a maximum certified seat capacity of less than 80 being operated by domestic scheduled operators and helicopters of all types to pay landing charges.

In this regard, **we would request to the Authority to kindly clarify whether there is any directive of MoCA under which the Authority is planning to take such positions.** In our view, any free landing for a select category will mean higher charges for the other users, which will be counterproductive. The above directive would only result in adding congestion to scarce airtime of airports.

b. Sub point (J) of parking and housing, Authority has mentioned about the waiver of night parking charges for all domestic scheduled operator between 22:00 hrs to 06:00 hrs. This will be made applicable from the date of implementation of the levy of tax (VAT) on ATF upto 5% by the respective state govt.

We believe that this is an arbitrary position which the Authority is proposing to adopt and it doesn't consider the fall back impact i.e. increase in regular tariff charged by Airport Operator, and adverse impact on the cash flow of Airport Operators. **Further, the Authority will agree that the Airport charges are only ~4% to the Airlines operating cost and there are several instances even when the Airport charges are reduced by the Airport operator the benefits have not been passed to the ultimate user / passenger. Hence, there is no justification for providing such waivers.**

c. Under the parking and housing section, the rate card is proposed with segregation of five categories related to the weight. It is stated that most of the tariffs are with a segregation of ' upto 100 MT ' and ' above 100 MT ' Accordingly, it is suggested that the

format be realigned with only two row items i.e. up to 100 MT and above 100 MT. However in future there may be a requirement for the service provider to follow a structure different from the above structure and that flexibility should be left to the airport operator to innovate any new pricing structure.

d. Sub point (iii), the Authority has proposed the unit of tariff determination as "Rate per Kilo litre". However, at most airports the fuel facility has been outsourced to third party operator who supplies fuel to airlines and charges them on per KL basis rates. As far as Airport Operators are concerned the Airport Operator gets revenue in two forms: Infrastructure charges and Through-put charges which are not captured in the current format. We reiterate our position that since the airport sector is dynamic and competitive the right format design of publishing rate card should be left with the Airport Operator as it will be different in each business model.

e. Sub point (IV), Passenger service fee or User development fee: In this regard Authority proposes to follow simple standard rate in terms of "per embarking passenger".

By limiting the UDF to just a single rate will restrict the possibilities of implementation of innovative tariff mechanism like: Based on long haul, Medium Haul, Short Haul: On Arrival and departure (as both use the Airport infrastructure) etc.

There should be the flexibility available to the Airport operator to incorporate the above as well as any innovative pricing offerings that he would like to introduce in the future.

4 Key observations in the format given under heading "Standardization of Tariff Card for ISPs":

a. Reference: Format A1 and B1

The format referred contains a line item "Others". It is proposed that the ISP be given the flexibility to add additional line items to the charges under "Others". The Cargo operators offer services which are different and unique in nature from other Airports which can be incorporated in the rate card.

b. Reference: Format A4 and B4

The rates as proposed to be standardized are per kg. However, there are instances where the Cargo service provider has to offer rates on ' per Palette ' basis. The revenues from rates offered on per Pallete basis are at present low, though the scenario may change in the future. Therefore it is suggested that the format should also include ' per pallete ' rates.

c. Reference : Format A5

The list provided by the Authority is not comprehensive and needs a detailed review in consultation with the ISP's

d. Documentation Fee

Documentation Charges do not fall under the core activities provided by a Cargo Operator. The services offered under this charge are not standardized services and are tailor-made to the specific requirements of the users.

We wish to bring to your kind notice, that not all users of the Cargo facility utilize the documentation services offered by the ISP, and several users have their own setup and do not opt for this service. In such scenario, we propose that the field for 'Documentation Fee' may be removed from the format for Cargo Handling and should be outside the ambit of regulation.

e. Reference: Format 14 b

Form 14 (b)	
Fuel Throughput -Fuel Farm Facility	
Tariff year	Rate per Kilolitre (Rs.)
1	
2	
3	
4	
5	

The ISP also charges rates corresponding to the infrastructure cost provided for Fuel throughput. The format referred above does not include any field to show such rates. Additional fields hence need to be added in the format.

5 Comments on the proposed changes in **Annexure 1 of the above referred letter:**

a. Sl. No. 6 of Annexure-I of above referred letter (Royalty or License Fees payable to the Airport Operator)

Authority vide above referred letter opined that the pass through of Royalty or License fee payable to operator defeats the very purpose of competition and proposed that royalty payable to Airport operator by ISP beyond 20% of gross Turnover may be excluded for the purposes of computation of profit.

We humbly submit that the position being taken by the Authority is incorrect as in today's scenario the air cargo market is highly competitive as they not only have competition at the airport between two or more service providers / operators but also face competition from nearby airports. Further the air cargo operator have sufficient competition from alternate modes of transportation viz. rail, trucks etc.

The Authority has also considered competition as a criteria to allow light touch approach for various ISPs across India hence the prices are market driven. As such there should be a

soft touch approach followed for regulating ISP's. The consideration of 20% limit is totally arbitrary and not supported by any sound reasoning or justification. This will also adversely affect the business of ISPs.

In fact, by the aforesaid proposal all ISP's paying more than 20% will become loss making. For example an ISP having

- 1 Turnover of 100 Crore
- 2 Revenue share of 25%
- 3 Equity 10 Crore

Will incur huge loss as under:

Turnover	100
Revenue Share Paid @25% (contractual obligation)	25
Revenue Share allowed @20%	20
Deficit due to Authority's stand	5
Return on Equity allowed@16%	1.6
Loss of ISP-	(3.4)

The above example clearly indicates how the ISPs would become unviable by adopting this approach.

Further, the following serious adverse impact may arise due to this:

- The artificial cap of license fee/royalty i.e. 20% will also lead to inefficient price discovery as concession fee determination is dependent on many factors including volumes, business growth opportunities etc.
- We would also like to bring to your kind notice that the majority of concessions for various airport services have been awarded under the competitive tendering process. Any change in government policy/Regulatory Policy impacting the viability post the investors investing into the venture will discourage private as well as global investments in Indian infrastructure.
- This will be against the very objective of recent Draft civil aviation policy issued by MoCA, proposing to enhance the ease of doing business through deregulation as well as promotion of entire aviation sector chain.
- A lower revenue share to Airport Operators will also lead to higher Airport Charges

b. Currency of tariff: (Sl. No. 4 of Annexure-I of above referred letter):

In the above referred letter we understand that Authority wishes to fix the tariff card in INR and desires the Airport/ ISP to use fortnightly exchange rate for billing in foreign currency.

However we would like to clarify that a passenger booking tickets abroad in foreign currency need to be charged in dollar rate of the passenger charges. As such it is imperative that the rate card has a dollar rate as well at the start of the control period otherwise airlines will face difficulty in booking of tickets.

The proposed methodology will put Airport Operator/ISP at risk as any borrowing done by ISP will be at a rate which was prevailing at the time of borrowing whereas the income will be based on current conversion.

As such the above step will take away the natural hedge available with ISP. This will take away the benefit which an ISP might bring to end user by way of lower charges by borrowing in foreign currency.

c. Depreciation: (Sl. No. 2 of Annexure-I of above referred letter):

Depreciation rates need a review on two accounts: one for taking into account the residual life of concession as also the various changes in accounting standards

We would to bring to your kind notice that the depreciation rates/Life of asset may need to be changed based on period of concession. If the concessionaire does not get any residual value at end of the concession, he needs an accelerated depreciation.

Therefore, in case of assets held by a Concessionaire Company, its useful life to such Company is restricted to the length of the period of concession if such concession period is lesser than the useful life. Otherwise as prescribed under Schedule II of the Companies Act. also, the residual value of such assets for such Company is NIL as the assets are handed over back at Nil value to the Authority granting the Concession.

So, a Concessionaire Company can charge depreciation on its assets with their useful equivalent to the concession period and with residual value as NIL.

The report on depreciation and resultant approach towards regulation also needs to be revisited in view of the mandatory adoption of new accounting standards norms (IFRIC 12, etc.).

d. Annual Compliance statement (Sl. No. 1 of Annexure-I of above referred letter):

The proposed change makes the annual compliance statement as mandatory for processing MYTP/ATP. We would like to request the Authority to consider the period taken for determination of tariff from the date of filing.

e. Materiality Index (Sl. No. 3 of Annexure-I of above referred letter):

The prevailing limits for assessment of reasonability need a revisit. The current limit brings a large chunk of very small players in ambit of regulations resulting in no material benefit.

In the case of Cargo operations, the operators have to not only compete with operators servicing overlapping geographies but also compete with other modes of cargo transport such as road and railways.

As the cargo market is fiercely competitive, with the presence of several organized and unorganized players, the key differentiator for smaller ISPs is only the pricing. Hence bringing smaller operators within the ambit of regulation (which is meant for monopolistic markets) should be avoided.

In light of this, we propose that the threshold for materiality of various services be revised upwards as no significant economic benefits would be derived by regulating smaller entities in a competitive market. We propose that the test for reasonableness should be determined on the basis of consent of users individually contributing over 10% of the throughput handled by the operators.

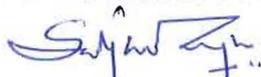
In view of the above APAO requests the Hon'ble Authority , not to proceed further with the present proposals as they cannot be implemented in the present form. APAO further requests the Authority to consider the following:

- a) There should not be any mandated standard / uniform rate card in view of the fact that there are different revenue models, different tills, different control periods, different regulatory mechanisms etc. and as such standardization will not serve any useful purpose. However, if required, periodical data compilation may be done by the Authority as regards to the rates being charged by the various operators for various services.
- b) If Authority still decides to go ahead ,then the submission of the rate cards as given in the aforesaid letter should be at ATP stage and not at the MYTP Stage.
- c) The royalty / license fee should not be capped and be allowed at levels they have been bid out on a competitive bidding basis. Any change on retrospective basis would lead to financial sickness for the industry.
- d) The tariffs in USD and INR should be decided at the beginning of the tariff period as the billing entity needs to have dollar rate for tickets bought in foreign currency.
- e) The report on depreciation and resultant approach towards regulation also needs to be revisited in view of the mandatory adoption of new accounting standards norms.
- f) The time period for completion of tariff determination needs to be laid down.
- g) Materiality Index percentage needs an upward revision.
- h) The list of charges need a comprehensive review based on different services being provided by different service providers

We would request AERA to kindly consider our submissions favorably. We would be pleased to provide any additional inputs/ clarification if required.

Thanks and Regards

For Association of Private Airport Operators



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