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Consultation Paper No. 8/2016-17

Airports Economic Regulatory Authority of India

In the matter of Capping the percentage of Royalty / Revenue Share payable to Airport Operator as a "Pass Through" Expenditure for the Independent Service Providers providing Cargo facility, Ground Handling and Supply of Fuel to the Aircraft at Major Airports.

31st March, 2017

AERA Building

Administrative Complex

Safdarjung Airport

New Delhi

1. INTRODUCTION

One of the Major functions of the Airport Economic Regulatory Authority is to determine the tariff for aeronautical services in respect of major airports. Aeronautical services are defined in Section 2A of the AERA Act 2008 to include Ground Handling services, services provided for Cargo facility at the airport and for supply of fuel to the aircraft. The Authority has after consultation with the Stakeholders drawn up guidelines on how the tariff for these services shall be determined. If the quantum of the services provided at the major airport is not material then the tariff is determined on a light touch approach. Similarly even if the services are considered 'material' and there is adequate competition to provide services at the airport then again light touch approach is used for determining tariff. If the services provided are material but there is no competition then depending on the User Agreements, the Authority determines the tariff under 'light touch' approach.

2. POINTS FOR CONSIDERATIONS

2.1 While examining the Multi Year Tariff Proposals (MYTPs) of various ISP's, it has been observed that some of the airport operators are charging unreasonably high royalty/ revenue share from the ISP's.

2.2 There is no regulation at present to deter charging of exorbitantly high rates of royalty revenue share by the Airport Operator. The rates charged for services do not seem to be commensurate with the cost or quality of service provided.

2.3 Royalty or licence fees payable to the Airport Operator by ISPs are made a part of the total operating expenditure which in other words becomes "A Pass Through Cost". The entire amount of royalty/fees/licence fees payable to airport operator is taken as an operating expenditure by ISP and it is being allowed as "Pass Through" under the light touch approach, resulting in high charges being levied by the ISP.

2.4 The profitability of the ISP is low due to high rate of Royalty payable by ISP to the Airport Operator and this limits the capability of the ISP to upgrade facilities and quality of service and if there is a monopoly situation there is no incentive to invest in expansion and modernisation of facilities. The ultimate user bears these additional charges and very often they are unaffordable thereby limiting the growth of the sector.

2.5 Since these charges are meant to acquire the right to do business in the airport, they do not have any relevance to costs incurred by airport operator and are therefore not consistent with the policies of ICAO relating to tariff determination.

2.6 The Authority is of the view that there should be some capping on Fees/ Revenue Share/ Royalty which can be allowed as a "Pass Through". Accordingly, the Authority in its 167th meeting held on 12th January 2017, considered capping of Royalty payable to airport operators by the ISPs, which may be allowed as a "Pass Through Cost" for the purpose of tariff determination. Keeping this in view the Authority proposes that,

(i) There should be a ceiling on Fees/Revenue Share/ Royalty payable to the airport operator by ISP.

(ii) Authority proposes to allow 30% of such Fees/Revenue Share/ Royalty as a 'Pass Through Cost' for regulatory purpose.

3. PROPOSAL

3.1 In view of the reasons stated above, the authority proposes to tentatively cap the amount/percentage of Royalty/Revenue share payable by the ISP to Airport Operator at 30% of the Gross Turnover (GTO) of the regulated service which shall be allowed for regulatory purposes as "Pass Through" for determining the tariff of the ISP. Wherever fresh contracts are to be entered into, this ceiling shall be taken into consideration. In the case of existing contracts between the ISP and airport operator, the actual fees/ royalty/ revenue share payable to airport operator will be allowed as "Pass Though" cost up to 31/05/2019 for determination of tariff. In the meantime the ISPs and airport operator are advised to renegotiate their revenue sharing agreements.

3.2 The Authority welcomes written evidence-based feedback, comments and suggestions from stakeholders on the proposal made in para 3.1 above, **latest by 24th April, 2017** at the following address:

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