SpiceJet Limited
319 Udyog Vihar, Phase-IV,
Gurugram 122016, Haryana, India.
Tel: + 91 124 3913939
Fax: + 91 124 3913844

October 6, 2021

To,
The Chairperson,
Airports Economic Regulatory Authority,
AERA Building, Administrative Complex,
Safdarjung Airport,
New Delhi- 110 003.

Kind Attention – Shri. Balwinder Singh Bhullar

Sub. : Comments on Consultation Paper

Ref. : Consultation Paper No. 16/2021-22 dated September 7, 2021 on Determination of Aeronautical Tariff for Chennai International Airport, Chennai (MAA), for the Third Control Period (01.04.2021 – 31.03.2026)

Dear Sir,

In response to the Consultation Paper No. 16/2021-22 issued by the Airports Economic Regulatory Authority of India ("AERA" or "Authority") in the matter of determination of aeronautical tariffs in respect of Chennai International Airport, Chennai (MAA) for the Third Control Period (1 April, 2021 to 31 March, 2026) ('Consultation Paper') submitted by Airport Authority of India Chennai (AAI - Chennai) vide AERA Public Notice No. 16/2021-22 dated 07 September, 2021.

At the outset, we would like to express our sincere gratitude to AERA for inviting stakeholder comments on the Consultation Paper, and further acknowledging the impact of COVID-19 on the aviation sector.

Sir, you will appreciate that airlines which are the 'catalyst' for the global economy including the aviation sector, have been hit the hardest by COVID-19. Since February/March 2020, due to restrictions on the scheduled international and domestic air travel issued by the Ministry of Civil Aviation and Directorate General of Civil Aviation and other restrictions on inter/intra state travel ('collectively 'Government Restrictions'), airlines' cash flows have been severely impacted.

While the airline operations showed an upward trend from December 2020, however the brutal second wave of COVID-19 in March 2021 has again impacted the operations and resultantly prolonged the process of financial recovery. At present, the airlines' operations are barely at 60 - 65% (approx.) of the pre COVID-19 capacity and the passenger traffic at around to 50 - 60% (approx.) of pre COVID-19 levels.

As per industry estimates issued by IATA and CAPA, it will take almost two (2)- three (3) years for airline operations to reach pre COVID-19 level, in terms of number of flights and passengers. In the current situation, airlines in India are staring at a loss of USD 8.0 billion for

SpiceJet Limited

Registered Office: *Indira Gandhi International Airport, Terminal 1D, New Delhi – 110037, India. Website : www.spicejet.com*
CIN: L51909DL1984PLC288239

the FY 2020-21 and 2021-22. With limited financial support from the Government, Airlines are constrained to implement severe cost control measures to sustain its operations

In the given circumstances, it is imperative that AERA does not take any steps, including by way of increase in aeronautical tariff, during the Third Control Period, which precipitates any further adverse financial impact on the airlines.

The Consultation Paper proposes an increase/hike in the aeronautical tariffs at MAA as more particularly mentioned under Annex – A hereto. In this regard, we humbly request AERA to not implement any increase in the aeronautical tariff in the Third Control Period and defer any increase in the same to the subsequent control period, given the scenario described above.

Without prejudice to the above, and as desired by AERA, please find attached our recommendations/ comments on the Consultation Paper, under Annex – B. We hope that your good self will positively consider such recommendations/ comments as it will help in achieving the affordability and sustainability of the airline, which is also outlined as a key objective in the National Civil Aviation Policy, 2016.

We look forward to your continued support in these challenging times.

Thanking you in advance.

Yours Truly,
For SpiceJet Limited

SpiceJet Limited

GP Gupta
Chief Strategy Officer

Copy to:
Director (P&S Tariff), Airports Economic Regulatory Authority of India (AERA)

Annex – A

Increase in Aeronautical Tariff

(Figures in Rs.)

Particulars	Existing Tariff			Proposed by AERA				
	MT	AUW (MT)	Exstng till 30 Sep 2021	Efective 01 Oct 2021	2022-23	2023-24	2024-25	2025-26
Landing Charges Domestic – per MT	**Upto 25**	**25**	**30**	**30**	**87**	**125**	**146**	**171**
Illustrative Examples – Q400 Aircraft:								
Q400 Landing Charges 90 seater	25 to 50	30	925	925	2,685	3,840	4,503	5,284
Illustrative Impact On Q400 90 Seater Aircraft								
Increase % from existing				0%	190%	315%	387%	471%
Increase % Year on Year				0%	190%	43%	17%	17%
Illustrative Examples – Boeing Aircraft:								
B700 (AUW 62000)	50 to 100	62	2,105	2,105	6,105	8,740	10,254	12,017
B800 (AUW 79016)	Upto 100	79	2,785	2,785	8,077	11,562	13,569	15,893
B900 (AUW 74000)	Upto 100	74	2,585	2,585	7,497	10,732	12,594	14,753
MAX-HGW-82000	Upto 100	82	2,905	2,905	8,425	12,060	14,154	16,577
Illustrative Impact On B737-900								
Increase % from existing	B900	74		0%	190%	315%	387%	471%
Increase % Year on Year	B900	74		0%	190%	43%	17%	17%
Landing Chrs - International - Per MT	**Upto 25**		**60**	**60**	**174**	**249**	**292**	**343**
Illustrative Examples – Q400 Aircraft:								
Q400 Landing Charges 90 seater	25 to 50	30	1,825	1,825	5295	7579	8890	10,422
Illustrative Impact On Q400 90 Seater Aircraft								
Increase % from existing				0%	190%	315%	387%	471%
Increase % Year on Year				0%	190%	43%	17%	17%
Illustrative Examples – Boeing Aircraft:								
B700 (AUW 62000)	50 to 100	62	4025	4,025	11,679	16,709	19,599	22,984
B800 (AUW 79016)	Upto 100	79	5300	5,300	15,385	21,996	25,804	30,260
B900 (AUW 74000)	Upto 100	74	4925	4,925	14,295	20,441	23,979	28,120
MAX-HGW-82000	Upto 100	82	5525	5,525	16,039	22,929	26,899	31,544

SpiceJet Limited

Illustrative Impact On B737-900								
Increase % from existing	B900	74		0%	190%	315%	387%	471%
Increase % year on year	B900	74		0%	190%	43%	17%	17%
<u>Parking Chrs</u> – Domestic & International - Per Hour/MT	**First 2 Chargeable hours**		**1.2**	**1.20**	**3.50**	**5.00**	**5.80**	**6.90**
Increase % from existing				0%	192%	317%	383%	475%
Increase % year on year				0%	192%	43%	16%	19%
<u>Parking Chrs</u> – Domestic & International- Per Hour/MT	**Above 4 hrs**		**2.3**	**2.30**	**6.70**	**9.60**	**11.20**	**13.10**
Increase % from existing				0%	191%	317%	387%	470%
Increase % year on year				0%	191%	43%	17%	17%
UDF Charges								
UDF - <u>Domestic</u>	**Per Dep Pax**		**69**	**69**	**190**	**270**	**350**	**400**
Increase % from existing				0%	175%	291%	507%	480%
Increase % year on year				0%	175%	42%	30%	14%
UDF - <u>International</u>	**Per Dep Pax**		**69**	**69**	**275**	**400**	**540**	**600**
Increase % from existing				0%	299%	480%	683%	770%
Increase % year on year				0%	299%	45%	35%	11%

SpiceJet Limited

Annex – B
Comments on Consultation Paper and Tariff Card

1. Exemption on Landing Charges:-

a. Refund of Landing Charges: (Refer 14.2.8 to 14.2.10 of the CP)

The Authority has sought to take into consideration stakeholder's view before taking final decision on matter of refund of landing charges to SpiceJet for Q-400 landing charges at Chennai by AAI - Chennai during the First Control Period.

In line with the recommendations of the Naresh Chandra Committee, the Ministry of Civil Aviation (MOCA) announced exemption of landing charges in respect of aircraft with maximum seating capacity of less than 80 seats (small aircraft) and being operated by domestic scheduled operators, vide its letter no. G-17108/07/2001-AAI dated February 9, 2004. Airports Authority of India (AAI) also issued orders in line with the above letter, vide its letter no. Av.11014/22/2002-Rev/ dated February 11, 2004. All the airports (except Civil Enclaves at Defence Airports) stopped charging landing charges on small aircraft in line with the above letters.

In accordance with the above Government policy airline operators in India inducted small aircraft with less than 80 seats into their fleet to boost connectivity to small and far flung airports which has immensely helped in promotion of travel, trade and tourism along with generating a lot of employment opportunities to the people in those areas. The small aircraft have played a vital role in the success of the ambitious UDAN scheme launched by the Government of India.

With the privatisation of airports and constitution of Airports Economic Regulatory Agency (AERA), some airports, as part of their tariff, got landing charges on small aircraft approved from AERA which were not in line with the above letters of MOCA and AAI. Such landing charges were recovered by the airport operators from the airlines. Since such recovery was contrary to the government policy on the basis of which airlines had made large investments, airlines raised this issue with MOCA and AERA. After the representations, AERA stopped approving landing charges on small aircraft from second control period onwards on domestic flights. It is worth mentioning that as per the letter no. G-17108/07/2001-AAI dated February 9, 2004, no landing charges were to be charged in respect of the flights being operated by small aircraft by a scheduled domestic operator without any limitation of domestic or international flights.

In view of the above, it is submitted that all the landing charges charged by AAI - Chennai at Chennai Airport for operations of the aircraft with less than 80 seat be refunded to the airlines along with interest to be calculated as per interest charged by AAI - Chennai from the airlines from time of time. The principal amount charged from SpiceJet by AAI - Chennai are as under:-

Financial Year	Amount invoiced by AAI Chennai (in INR)
2012-13	2,374,201
2013-14	58,523,804
2014-15	64,037,529
2015-16	61,097,674
2016-17	68,631,451
2017-18	68,255,785
2018-19	10,221,529
Grand Total	**333,141,972**

SpiceJet Limited

Airports Authority of India Chennai has confirmed an amount of Rs. 33,10,45,277 vide its letter no. AAI/CH/REV/SJ dated 24.09.2021, which has been submitted by SpiceJet to AERA vide SpiceJet letter no. AERA/250921 dated September 24, 2021.

b. Compensation to AAI: (Refer 4.2.11 of the CP)

We are thankful to AAI for considering the claim of SpiceJet for the refund of the amounts as mentioned in Point 1(a) above, and to rectify the errors that had crept in to the MYTP, Consultation paper and Tariff Order for the First Control Period regarding the levying of landing charges in respect of aircraft with maximum seating capacity of less than 80 seats being operated by domestic scheduled operators, in contradiction with the Ministry of Civil Aviation, Government of India's letter no. G-17108/07/2001-AAI dated February 9, 2004 and AAI's letter no. Av.11014/22/2002-Rev/ dated February 11, 2004. We are also thankful that this oversight has been rectified in the Tariff Order for the Second Control Period, in line with the MOCA's letter no. G-17108/07/2001-AAI dated February 9, 2004 and AAI's letter no. Av.11014/22/2002-Rev/ dated February 11, 2004. We are also thankful that aforementioned exemption has been stated in the proposal of AAI - Chennai for the Third Control Period and has been considered accordingly by AERA.

In our view, subject to the aforementioned amounts being refunded to SpiceJet, AAI – Chennai may be suitably compensated for the deficit that may be created due to such refund to SpiceJet.

2. Tendering Process and Royalty:- (Refer Table 48 of the CP)

a. Tendering Mechanism:

Authority should ensure that instead of the Concession agreements being for a period of 7 to 10 years, the same should not exceed five (5) years such that there is no monopolistic situation, and in a fair and transparent manner, with the agreement awarded to only those parties which provide best-in-class services at the most competitive (at the least) price, from at least three to four parties.

Length of Concession agreements at Chennai:

Retail	Duty Free	Parking	Advertising	F & B
7 Years	7 Years	1 Years (Extendable)	10 Years	10 Years

Any attempt to award the contracts on highest revenue share basis should be discouraged as it breeds inefficiencies and tends to disproportionately increase the cost. It is general perception Airport operator 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.

SpiceJet Limited

b. Royalty:

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 some of the airports are as high as forty-six (46) %. 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.

The rates of royalty/concession fee for various services at Chennai Airport are mentioned below:

GHA(Dom)	GHA(Intl)	Catering	Freight	Security	MRO
13%	13%	13%	13%	32.50%	13%

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

3. Over Recovery (Second Control Period):- (Refer 3.11.4 of the CP)

The Authority has noted an over recovery of Rs. 472.90 Cr. in the Second Control and proposed to readjust the same (claw back) in the ARR computation of the Third Control Period. The Authority and AAI - Chennai should undertake a detailed scrutiny (including independent studies/audits) and other appropriate measures to ensure that there are no cases of over recovery, which will assist in lowering the burden of tariff on airlines/ passengers. It appears that the costs are exaggerated/inflated, and revenues suppressed in the projections, which leads to over recoveries.

In case of excess recoveries, not only the original amount of excess recovery but also the interest calculated thereon should be taken into account, at the rates at which airport operators charges interest on dues from airlines, from the date of recovery of such excess from time to time.

4. Deferment of Capital Expenditure- Regulatory Asset Base:- (Refer 5.1, 5.2.2, 5.2.89 - 5.2.97 & 5.2.44 of the CP)

We appreciate that considering the reduced traffic owing to COVID-19, AERA has rationalised the capital expenditure and excluded certain proposed additions by AAI - Chennai to RAB.

Stoppage of non-safety related capital expenditure:

As noted by the Authority, AAI - Chennai has had a trend of proposing capex in the respective control period and postponing it to the next control period. While AAI - Chennai

SpiceJet Limited

proposed capitalisation worth Rs. 2,862.71 Cr. in the First Control Period, it executed only Rs. 2,235.90 Cr. Similarly, in the Second Control Period, AAI - Chennai had proposed capital additions worth Rs. 1,434.2 Cr., it capitalised only Rs. 243.73 Cr.

Further, Authority acknowledged the effect of the pandemic in the Second Control Period, also opined that the passenger must not bear the burden in case of a delay in capitalisation due to the airport operator.

As mentioned above it will take around two (2) -three (3) years for the flight operations to reach to its pre COVID-19 peak levels.

In view of the above, in order to support the airlines to continue and sustain its operations, all non-essential capital expenditure proposed by AAI - Chennai should be put on hold/ deferred, unless deemed critical from a safety compliance perspective. Further, in case AAI - Chennai 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. Similarly, if any proposed Capex projects can be deferred from the Third Control Period to the Fourth Control Period, same should be considered by the Authority.

5. Fair Rate of Return (FRoR):- (Refer 6.2.8 of the CP)

We appreciate that AERA has considered a lower FRoR of 11.95 %, which is net of income tax return to the airport operator, for the Third Control Period.

However, while such fixed/ assured return favours the service provider, it 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 like AAI - Chennai 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. In the present scenario any assured return on investment to any services providers like AAI - Chennai, in excess of three (3) % (including those on past orders), i.e. being at par with bank fixed deposits (i.e., return on investment after the income tax), will be onerous for the airlines.

Without prejudice to the above, in case the Authority is unable to accept our recommendation mentioned above, the Authority is requested to conduct an independent study for determination of FRoR to be provided to AAI - Chennai. Such independent study can be exercised by the Authority in terms of powers conferred under the Airports Economic Regulatory Authority of India Act, 2008, as amended, and in line with studies being conducted by Authority in case of certain major airport operators.

6. Operating Expenses:- (Refer 8.2.17 and Table 99 of the CP)

We appreciate that an independent study was commissioned through E&Y LLP on "Study of Operations and Maintenance Expenses of Chennai International Airport".

We are unaware as to whether AAI - Chennai has taken cost cutting measures including re-negotiations of all the cost items on its profit and loss account. It may be noted that cost

SpiceJet Limited

incurred by AAI - Chennai impacts the airlines, as such cost is passed through or borne by the airlines.

Further, in view of industry reports from IATA and CAPA, which foresee a minimum period of two (2)-three (3) years for air traffic and flight operations to reach pre COVID-19 levels, we request Authority should:

(a) Put on hold any increase in operational expenditure by AAI - Chennai;

(b) Advise AAI - Chennai to review its spending on operational expenditure and re-negotiate all the operational expenditure costs in a significant manner and address any increase in fees sought by AAI - Chennai. It may be noted that across various industries, instead of cost escalations, all the costs have been renegotiated downwards substantially. Accordingly, AAI - Chennai needs to significantly reduce all such costs in a very aggressive manner. AAI - Chennai may be advised to reduce its cost by at least 35% and no escalation should be permitted; and

(c) In view of the above, AAI - Chennai should be directed to pass on cost benefits to the airlines.

(d) In particular, we submit that:

(i) Y-O-Y Increase in the O&M expenses proposed by AAI - Chennai is between 2.73% - 9.30%. Instead of a significant reduction in cost items of operating expenses, Authority has considered a percentage increase in OPEX of around 42% between 2022 and 2026. Such an increase in the name of escalation, in a highly uncertain environment, where airlines are operating under curtailed operations (60-65%), appears without any rationale and should be avoided.

(ii) Payroll Cost:

Although the activity level has gone down drastically, rather than significant reduction in the cost, the employee expenses are proposed to increase Y-O-Y between 6.91% to 12.38% over the five (5) year control period.

We submit that while the aviation sector, including airlines have incurred huge losses and are struggling to meet their operational costs, and are not able to pay even to the support staff, on the other hand AAI - Chennai seems to have paid/will pay incremental salaries which may not appear prudent considering the significant losses incurred by the aviation sector.

It appears that AAI - Chennai wants to recover its full employee cost from the airlines, which are facing significant challenges to meet its operating expenses.

We submit that there should not be any increase in manpower till the existing manpower is effectively utilised as it will take another two (2)- three (3) years to recover. Existing manpower can be reviewed and any additional costs due to contract manpower or otherwise should be reduced.

Without prejudice to the above, AAI - Chennai needs to considerably restructure its employee benefit expenses and other expenses and hold any revisions at least for the next two (2) years.

SpiceJet Limited

7. **Non-Aeronautical Revenue:- (Refer 9.2.3 of the CP)**

The Authority has sought to take into consideration stakeholder's view on the proposed non-aeronautical revenue increase. While we appreciate Authorities' view of conducting a detailed independent study on the non-aeronautical revenue before the tariff determination of the Fourth Control Period, we are of the view that considering the low base of increase of only 4.6%, the Authority may kindly set a target of at least 50% increase Y-O-Y. Considering that nearest comparable airport like Bangalore and Hyderabad have a non-aero revenue projected percentage increase between Second Control Period and Third Control Period in the region of 30% each, the low figures of Chennai are disappointing, especially since the projected passenger throughput increase of Chennai is comparable with the passenger throughput increase of Bangalore and Hyderabad, being in the region of 22% to 27% between Second Control Period and Third Control Period.

Without prejudice to the above, our submission is that increase in non-aeronautical revenue is a function of passenger traffic growth, inflationary increase and real increase/escalations in contract rates. AERA to ensure no adjustments are proposed to non-aeronautical revenue which is not dependent on traffic but are derived from agreements with concessionaires.

8. **Aggregate Revenue Requirement / Shrinkage in Control Period Control Period:- (Refer 13.3 of the CP)**

1. AERA is requested to review the suggestions/comments on the regulatory building blocks as mentioned under Annex – B, which is likely to reduce the ARR (including shortfall) of MAA. This will further ensure the lowering of tariff including UDF, which will be beneficial to passengers and airlines.

2. We submit that the Hon'ble TDSAT Order dated 16 December, 2020 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 MAA's Third Control Period will now be issued after the commencement of the Control Period i.e. 1 April, 2021.

9. **Tariff/Government Restrictions/Collection Charges:- (Refer 14.1.1 of the CP)**

1. **Tariff:**
   While AAI - Chennai has proposed to increase the aeronautical tariffs as applicable from 1 April 2021 between 920% to 975% for Domestic and International Landing charges respectively from existing rates and thereafter an increase of 4% on 1st April every F.Y. up to F.Y 2025-26, AERA has considered increases up to around 470% as compared to existing charges. Similarly, while AAI - Chennai has proposed increase of Parking charges (Domestic/International) at 1220% from existing rates w.e.f. 01.04.2021 and thereafter an increase of 4% on 1st April every F.Y up to F.Y 2025-26, AERA has considered increases up to around 470% as compared to existing charges. Further, for UDF, AAI - Chennai has

SpiceJet Limited

proposed an increase of 813% for Domestic and 1857% for international passengers as compared to existing rates with effect from 01.04.2021 and thereafter an increase of 4% on 1st April of every F.Y up to F.Y 2025-26, while AERA has considered increases up to around 480% for domestic and around 770% for international passengers as compared to existing charges.

These rates of increase in tariff are shockingly high especially in the backdrop of COVID-19. It is in the interest of all the stakeholders not to increase the tariffs in order to encourage middle class people to travel by air, which will help in sharp post-COVID-19 recovery of aviation sector.

2. **Government Restrictions:**

Please further note, there were no scheduled operations between March 25, 2020 to May 24, 2020 due to the restrictions imposed by the Government of India which was caused due to the lockdown during the pandemic period. Hence it is requested that:

a. no space rentals should be chargeable during the above mentioned period to the airlines, and refund of rentals already charged should be made immediately;
b. no parking charges (including housing charges, if any) should be applicable during the afore mentioned period, and refund of such parking charges already charged should be made immediately;
c. After the above mentioned period, there was a calibrated opening of operations allowed by the Government, and thus instead of applying the full rates, the space rentals and parking charges should only be applicable only in the same ratio as of the allowed operations, and refund in accordance with this request be made immediately;
d. no parking charges should be applicable on the aircraft which continue to be grounded due to the above mentioned reasons, and refund of such parking charges already charged should be made immediately. In addition, it is requested that no further charges should be applicable till the end of the restrictions as outlined above.

3. **Collection Charges:**

With regard to the entitlement of the collection charges per departing passenger, as it is mentioned that the same would be subject to the policy pertaining to such charges between the airport operator and the airline, and since it is not specifically mentioned what such policy might be, we submit that the same should not be conditional upon all dues, interest of dues, and other charges being paid within the due date, and the entitlement should be against AAI - Chennai having received the undisputed invoiced UDF amount with the applicable due date.

SpiceJet Limited