भारतीय विमानपत्तन प्राधिकरण
AIRPORTS AUTHORITY OF INDIA

FNO- No. AAI/CHQ/AERA/MYTP-Amritsar/2019

Dated:11/08/2020

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

Sub: -AAI Comments on Stakeholders' comments w.r.t. Consultation Paper No: - 05/2020-21 and 06/2020-21 in the matter of Determination of Aeronautical Tariff in respect of Varanasi and Amritsar Airport respectively for the first Control Period (01.04.2019 to 31.03.2024).

Sir,

Reference is invited to AERA's Email dated 04/082020 seeking views/counter comments of AAI on comments of GMR and Indigo on Consultation Paper No: -05/2020-21 and 06/2020-21 in the matter of Determination of Aeronautical Tariff in respect of Varanasi and Amritsar Airport respectively for the first Control Period (01.04.2019 to 31.03.2024).

The views/Counter comments of AAI on Comments of GMR and Indigo on the CP no 05/2020-21 and 06/2020-21 are as under

Sr. No.	Comments	AAI Reply
	GMR Comments	
1	Given the present situation of COVID 19, there is a high degree of uncertainty on the traffic figures. Also, a dip in Non-Aero revenues has been estimated by air traffic agencies to the tune of 50%, in terms of SPPs and actuals. While the fall in traffic and the resulting reduction of revenues would be considered for true-up based on actual in the subsequent control period, a reduction of the present scale would lead to a significant cash flow mismatch for the Concessionaire. Considering the above, we support AERAs position that the projections for traffic would be rationalized. In addition, we would also like to submit that Non Aero revenues should be rationalized in the given situation.	AAI agrees with the views of GMR.

2	AERA has recognized in the past that each airport is different and has used airport specific approaches for Capital Expenditure, rather than using the normative approach. We suggest that in continuation of the above, in these airports too, capital expenditure should be based on actuals.	AAI agrees with the views of GMR..
3.	GMR wish to submit that terminal area allocation would be based on specific characteristics of the airport terminal. Considering the above, we suggest that the terminal area allocation should be based on actual area utilization, rather than on normative percentages.	AAI agrees with the views of GMR.
4	In case of Varanasi Airport, it can be observed that there is an increase of nearly 250% in the terminal area. In view of the above, we suggest that costs towards utility, outsourcing, staff, repairs and maintenance, payroll, etc. may be re-looked at and revised to reflect a more proportional increase in cost.	AAI has proposed reasonable increase to avoid steep increase in charges and same will be trued up in the next control period.
5	With regard to submission of fresh application for tariff determination by operator selected through competitive bidding, a 25% reduction has been proposed in the Consultation Paper in case of delay in filing. We would like to submit that for a private player, there is a high dependency on AAI for the past data which will form the basis for determination of tariff for the private airport. A delay due to this would penalize the private operator. We suggest that such a huge deterrent may not be levied as a precondition.	The past data would be submitted to the private player by AAI as per the terms of the concession agreement. However AERA may like to take a view.
6	The Authority has proposed to levy a 1% penalty in case of delay in implementation of the project envisaged. It is pertinent to mention that the project capitalization period may overlap with the privatization. Determination of delay and entity responsible may not be possible in such a scenario. We suggest that provision for such penalty be removed.	AAI agrees with the views of GMR.
7.	In Varanasi and Amritsar Airports, an effective tax rate of 25.17% has been used for tax calculation. We agree with the AERA approach for adopting methodology for assessment of aero tax on a standalone aeronautical P&L drawn on the basis of various building blocks used for tariff determination.	AAI agrees with the views of GMR.
	INDIGO	

	We, InterGlobe Aviation Limited (**IndiGo**), write in response to the above captioned consultation papers issued by the Airports Economic Regulatory Authority of India (**AERA**) in the matter of determination of aeronautical tariffs in respect of Lal Bahadur Shastri International Airport, Varanasi (**VNS**) and Shri Guru Ram Dass Jee International Airport, Amritsar (**ATQ**) airport, each for the First Control Period (1.4.2019 – 31.3.2024), collectively referred to as '**Consultation Papers**' and stakeholder consultation meeting dated 30th June, 2020 on the same. The Consultation Papers, inter alia, propose an increase/hike in aeronautical tariffs at VNS and ATQ as follows for FY 2021-22: Landing Charges – 10% (Domestic) and 5% (International) at VNS; 45% (Domestic) and 20% (International) at ATQ; and Parking and Housing charges - 120% (Domestic) and 91% (International) at each VNS and ATQ; The increase/hike in Landing, Parking and Housing Charges is proposed to be implemented by AERA in April, 2021, with a subsequent increase of 6% on a year to year (YoY) basis until 2023-24. Pursuant to the issuance of the Consultation Papers, Airports Authority of India (**AAI**) in the stakeholder meeting dated 30th June, 2020 made a presentation (**PPT**) proposing revised tariffs (including UDF) which are even higher than those proposed by AERA under the Consultation Papers, and have further proposed the implementation of revised tariffs w.e.f August, 2020. While IndiGo welcomes AERA's proposal to defer the increase/hike in Landing, Parking and Housing charges (domestic and international traffic) at VNS and ATQ to April, 2021, IndiGo submits that AERA should not allow/implement increase of aeronautical tariff, during the First Control Period, due to reasons stated below. As you are aware, the airlines (including IndiGo) have suffered adverse financial impact due to operational restrictions on scheduled domestic and international air transport, imposed by government authorities due to COVID	AAI does not agree with views of Indigo. The airport operator has also been hit very hard due to the impact of covid 19. In fact, the impact on the airports is much harder due to huge fixed costs the airport operator has to incur to maintain the airport during this period. It is submitted that the said airports have to incur loss even after the proposed tariff hike. Considering that the airports are facing severe cash flow constraints, it is submitted that AERA considers that revised tariff to be implemented as proposed by AAI.

	– 19, during the period of March to May, 2020. At the same time, airlines have continued to incur airport charges and further been directed to mandatory refund amount of cancelled tickets during such period, which has aggravated the financial impact. While the scheduled domestic air transport has been permitted a calibrated opening w.e.f. 25th May, 2020, such flight operations are subject to restrictions on capacity and fare, and adherence to safety protocols, as imposed by Ministry of Civil Aviation / Directorate General of Civil Aviation (**DGCA**). You will appreciate that until there is a complete opening of scheduled domestic and international flight operations, coupled with regaining confidence of passengers in air travel, airlines will continue to face a weak financial position. We wish to highlight that the proposed increase in Landing Charges itself will adversely impact the domestic operating expenditure for IndiGo at VNS by approx. 10% (AERA proposed rates) and 48% (AAI PPT rates); and at Amritsar by approx. 45% (AERA proposed rates) and 47% (AAI proposed rates under PPT), at the current levels of operations. This impact is likely to further increase with the YoY increase of tariff proposed by AERA/AAI and increase of flight 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 First Control Period, which precipitates any further adverse financial impact on the airlines.	
1.	PARA No. 3.2 and 3.3 Revenue from Air Navigation Services and Cargo services IndiGo submits 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..... (v) for the cargo facility at an airport."	AAICLAS is a subsidiary of AAI and thereby is a separate entity. The tariff proposal in respect of the Cargo business shall be submitted by AAICLAS. As per the concession agreement to be executed between AAICLAS and AAI, AAICLAS has to pay 30% of its revenue as royalty to AAI and the

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<td>IndiGo submits that considering the above provisions of the AERA Act, revenue from Air Navigation Services, Cargo services (100% revenue accruing to AAICLAS) should form part of aeronautical revenues and accordingly Authority should take into account of the corresponding revenue and revise the tariff card.</td>
<td>same has been considered for the determination of Aeronautical Tariff at AAI airports.

The tariffs for Air Navigation Services (ANS), will be determined separately and hence the ANS revenue/expenditure/capex are not considered in the tariff proposals of airport services.</td>
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<td>2.</td>
<td><u>PARA No. 4: Traffic</u>

AERA has adopted the following CAGR for Traffic Growth in the Consultation Paper:

<table>
<tr><th>Airport</th><th>Domestic Pax</th><th>International Pax</th><th>Domestic ATM</th><th>International ATM</th></tr>
<tr><td>ATQ</td><td>3 Year</td><td>3 Year</td><td>5 year</td><td>3 year</td></tr>
<tr><td>VNS</td><td>10 Year</td><td>S Year</td><td>3 Year</td><td>S Year</td></tr>
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What is the rationale behind adopting different CAGR periods for domestic and international (Passenger and ATM) in ATQ and VNS. In other words, is there any methodology to select a particular category of CAGR? AERA to kindly clarify.

<u>Comments on AAI PPT</u>
AAI has not disclosed the details of traffic forecast (including comparison with any other forecast with industry forums like IATA etc.) in accordance with Clause A 5.6 of AERA (Terms and Conditions for Airport Operators) Guidelines, 2011 (AERA Guidelines).

IndiGo submits that the Authority of relying on projections provided by AAI, should conduct its own independent study on traffic projections in accordance with the AERA Act. The same assumes even more importance as AAI has claimed a share decline/negative growth in the traffic due to COVID – 19.</td>
<td>AERA may like to offer its view.</td>
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<td>3.</td>
<td><u>PARA No.5 : Allocation of Assets between Aeronautical and Non – Aeronautical</u>

IndiGo submits that the AERA's proposal to bifurcate assets between aeronautical assets is based on information received from AAI and no detailed technical evaluation of the same has been done by AERA. IndiGo submits that no basis or independent study has been conducted by AERA for this ratio.

IndiGo submits that allocation of the airport assets between Aeronautical or Non- Aeronautical categories is critical under Hybrid Till approach, hence the same should be carried out on the basis of independent study in terms of the AERA Act.

Without prejudice to the above, IndiGo requests AERA to clarify the allocation ratio of terminal building and electrical</td>
<td>Allocation of Assets between Aeronautical and Non-aeronautical have been done on the actual usage of the facility for aeronautical and non-aeronautical purposes.

AAI has considered 65% of total project cost for Civil works and 35% of the total project cost for</td>
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	installation and basis for splitting the expenditure. IndiGo submits that the split of new terminal building cost between electrical installation and terminal building will have significant impact on depreciation as higher allocation of electrical installation will lead to accelerated depreciation and consequently higher ARR (as depreciation rate of electrical installation is higher than building).	Electrical works based on a reasonable estimate.
4.	<u>PARA No.7: Capital Expenditure for the 1st Control Period.</u> Terminal Buildings (i)Need for expansion of terminal building in the case of ATQ and Construction of new terminal building at VNS AERA should review the need for expansion and construction of new terminal building at ATQ and VNS, respectively, in light of(a) the proposed privatization of the airport – which may entail fresh assessment, capex requirements and consequent impact on tariff (b) any decline in passenger growth due to COVID - 19, as may be assessed by AERA. (i) Normative Costs of Construction IndiGo submits that AERA has adopted the normative approach towards determination of cost of terminal building and has considered a normative cost of INR 100,000 per sq. meters, as taken for other airport like Guwahati, Lucknow Chennai and Patna. However, IndiGo submits that as per Normative Order No. 07/2016-17 "In the matter of normative approach to building blocks in economic regulation of major airports – capital costs reg." dated 13.06.2016 (Normative Order), the ceiling cost per sq. metre for terminal building is stated as INR 65,000. IndiGo would also like to highlight that the cost per square meter of the terminal building in the case of Vishakhapatnam Airport is INR 58,546.60 per sq. mt. Without prejudice to the above, IndiGo submits that the regional dynamics of Varanasi and Amritsar is not similar to Guwahati, Lucknow, Chennai and Patna and therefore considering the cost escalations in those regions will not be appropriate. Accordingly, IndiGo submits that any cost to be allocated for capital expenditures should be within the normative norms prescribed by the Normative Order. <u>Comments on AAI PPT</u>	The terminal Building is planned for next 10-15 years to cater the future growth of passenger and it takes 30 to 36 months to construct a new terminal building with all the facility. The Capacity of Existing Terminal Building of Varanasi airport is 2.5MPPA whereas, it has already handled 2.78 MPPA in FY 2019-20 which indicates that the building is already saturated. Also, the Capacity of Existing Terminal Building of Amritsar airport is 4 MPPA and it has handled 2.45 MPPA in FY 2019-20 and is expected get saturated in next 4-5 years based on the traffic projections. In view of above, there is need for the expansion of terminal Buildings. Varanasi and Amritsar airports have been proposed for PPP which will take time and up to the handing over airports to private operator, AAI has to facilitate the passengers and needs more space for smooth operation at the airport. As per the Tariff order in r/o Vishkapatanam airport, an amount of Rs.59.20 Cr in FY19-20 for **liner expansion of terminal**

	AERA is requested to kindly review any additional cost claimed by AAI, exceeding the normative costs, as the same will have a significant impact on tariff.	**building** was allowed by AERA which was below the normative cost . However the same cannot be compared with Construction of **NITB** at Varanasi airport which consist of various state of the art, advanced electrical/electronic/security equipment and also due to inflation in the costs considering that the PDC is in 2023-24. .
5.	<u>PARA No. 8 : Depreciation</u> (i) Terminal Building IndiGo submits that on a review of 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 60 years and aprons have it for as long as 99 years. IndiGo submits that the useful life of terminal building for Kannur and Cochin airports have been considered 60 years by Authority. (ii) Residential Building IndiGo submits that as per Sl. No. 8 of Annexure - I of the Authority's Order 35/2017-18 "In the matter of determination of useful life of Airport Assets" dated 12.01.2018, residential buildings have a prescribed useful life of 30/60 years. It is pertinent to note here that unlike in case of terminal buildings where option of 30 or 60 years is to be evaluated by Airport Operator, the election of 30 years or 60 years is case of residential buildings is not to be evaluated by Airport Operator but is to be derived from provisions of Companies Act. IndiGo submits that Part C of Schedule II of Companies Act 2013 prescribes useful life of Buildings (other than factory buildings) having Reinforced Concrete Cement (RCC) frame structure to be 60 years. It is very unlikely that residential buildings will not be built on RCC Frame structure. IndiGo	AAI has adopted Useful life policy issued by AERA while preparing proposal for all AAI major airports.

	submits that residential building should be depreciated over a period of 60 years and not 30 years. In view of (i) and (ii) above, IndiGo submits that AERA should consider the useful life of Residential building and Terminal Building as 60 years as envisaged in Order 35/2017-18 read with Schedule II of Companies Act 2013, as applicable, and revise the amount of depreciation accordingly.	
6.	PARA No. 10: Fair Rate of Return The Consultation Papers provide the FRoR at the rate of 14% with the exception of VNS for the last year (FY ending March 2024) being given at 11.96%. IndiGo understands that AERA may consider a normative capital structure at a later date. IndiGo requests AERA to expedite the study for normative norms on capital structure to review the high cost of equity/FRoR being awarded to state entities like AAI, which are required to cate to public interest and not commercial interests.	AERA may like to take a view.
7.	PARA No.11: Non - Aeronautical Revenue IndiGo submits that the increase in non-aeronautical revenue is a function of passenger traffic growth, inflationary increase and real increase/escalations in contract rates. IndiGo submits that despite all these factors increasing during the control period, on examination of the non-aeronautical revenue projection for the first control period by Authority, IndiGo has observed that a conservative approach has been taken by the AERA. In particular, as seen below: (i) In the case of VNS, the New terminal building is to be built over an area admeasuring 67,000 sqm. (c. 2.5 times capacity of existing terminal building admeasuring 25232 Sqm.). However, corresponding non aeronautical incomes not considered accordingly. (ii) In the case ATQ, AERA to review a higher increase in non – aeronautical income (including	(i) & (ii)- It is submitted that the increase in non-aeronautical revenue is not a direct function of the passenger growth, inflationary increase and real increase/escalation in contract rates. It is also dependent on the passenger profile at that particular airport, In the case of both the airports Amritsar & Varanasi, 10 percent additional increase (i.e. total 20%) over the previous year's non aero revenue has been considered in the FY 2023-24 in non – aeronautical income (including Admission tickets) due to the Construction of New Terminal Building considering that profile of the passengers visiting the airport.

	Admission tickets) considering the expansion of terminal building. (iii) Car Parking – AAI should be asked to clarify for the reasons of decline of car parking revenue in each of VNS and ATQ. (iv) Land Lease/Commercial contracts/building - AAI to clarify whether annual escalation as agreed under related contracts have been considered. Comment on AAI PPT AAI PPT states as follows: *"To extend waiver to commercial contracts by giving a reduction of 50% in FY20-21, 30% in FY21-22, Nil in FY 22-23 and* *thereafter 10% escalation are proposed to be charged."* AAI to clarify whether airlines are eligible to claim waiver of charges under the above referred 'commercial contracts'? If yes, kindly specify such contracts relevant for airlines.	(iii)Car parking: The Car parking policy at AAI has changed resulting in the lower revenue of car parking. (iv) Land Lease/Commercial contracts/building - Annual escalation has been considered as per the agreement/rates issued by AAI. The waiver in respect of commercial contracts(excluding space rentals contracts) shall be applicable to all concessionaires.
8.	PARA No. 12: Operation and Maintenance Expenditure IndiGo submits that the Operating Expenditure is one of the major components for determining ARR, hence, the AERA should evaluate such expenses in detail rather than accepting projections provided by AAI on an "as is" basis. IndiGo further submits that as per clause 5.4.2 of AERA Guidelines, while reviewing forecast of operating expenditure the Authority has to assess (a) baseline operation and maintenance expenditure based on review of actual expenditure indicated in last audited accounts and check for underlying factors impacting variance over the preceding year; and (b) efficiency improvement with respect to such costs based on review of factors such as trends in operating costs, productivity improvements, cost drivers as may be identified, and other factors as may be considered appropriate.	The operational expenditure has been projected based on past trends and considering the inflationary impact and also increase in the minimum wages of maintenance workers as decided by the state Govt. The same has been considered by AERA in previous tariff order for AAI major airports.

	IndiGo submits that in order to assess efficient operating expenditure, AERA should have conducted an independent analysis in terms of AERA Act. IndiGo submits that VNS and ATQ have already completed a significant period of operations, hence benchmarking the costs would not be difficult for the Authority. However, till the time study is conducted, IndiGo would like to highlight aeronautical allocation ratio proposed as per AERA CP 5/2014-15 of Normative approach of 80% should be used, hence INDIGO submits that aeronautical expenditure should be considered at 80% for the first control period. Without prejudice to the above, IndiGo submits that In Varanasi - IndiGo submits that for an increase of approx. 20% in operational hours, an increase of 40% in electricity charges seems unreasonable. AERA had accepted 30% in the case of Patna Airport considering a similar increase. IndiGo submits to the Authority to consider the increase in electricity expense in line with and proportional to the increase in operational hours.	The additional cost proposed for Electricity (Night operation) for Varanasi airport is based on the additional area of Terminal Building built viz., 26822.79 sqm (including canopy area 1260sqm) at Varanasi vis-a-vis 8589 sqm at Patna Airport. Hence, the proposed increase is reasonable.
9.	<u>PARA No. 14: Taxation</u> IndiGo submits that as per para 5.5.2 of AERA Guidelines, *"The Authority shall review forecast for corporate tax calculation with a view to ascertain inter alia the appropriateness of the allocation and the calculations thereof"*. IndiGo submits that as per proviso to sub-section (ii) Section 72 of Income Tax Act, 1961 *"if the loss cannot be wholly so*	The MYTP in the instant case is submitted is for the first control period and the loss in a year during the control period has been set off against the profits (if any) of the subsequent years in the control period.

	set off, the amount of loss not so set off shall, in case the business so re-established, reconstructed or revived continues to be carried on by the assesse, be carried forward to the following assessment year and so on for seven assessment years immediately succeeding". IndiGo submits that business losses can be carried forward for 8 years and can be set off with profits in future years. IndiGo submits that the actual tax paid by the Company in control period shall be lower due to the set off of carry forward of losses prior to the present control period. IndiGo submits that losses for periods prior to present control period (if any) that are allowed to carry forward as per Income Tax Act, 1961 should be considered while computing taxation in the first control period rather than leaving it for true up in the second control period. IndiGo submits that actual payment of income taxes should be considered for true up purposes.	
10.	<u>PARA No.2.2 Methodology for Tariff Determination – Hybrid Till Vs. Single Till</u> IndiGo submits that as per para 2.2 of the Consultation Papers, it is stated that the AERA shall determine tariffs for VNS and ATQ Airport using the Hybrid Till model. It is to be noted that IndiGo has from time to time, advocated the application of a Single Till model across the airports in India. IndiGo submits that AERA should adopt Single Till basis the following legal framework being: In the Single Till Order, AERA has strongly made a case in favor of the determination of tariff on the basis of 'Single Till'. It is noteworthy that the Authority has inter alia in its Single Till Order: (i) Comprehensively evaluated the economic model and realities of the airport – both capital and revenue elements. (ii) Taken into account the legislative intent behind Section 13(1)(a)(v) of the AERA Act.	AERA may like to take a view.

	(iii) Concluded that the Single Till is the most appropriate for the economic regulation of major airports in India. (iv) The criteria for determining tariff after taking into account standards followed by several international airports (United Kingdom, Australia, Ireland and South Africa) and prescribed by ICAO. AERA in its AERA Guidelines (Clause 4.3) has followed the Single Till approach while laying down the procedure for determination of ARR for Regulated Services.	
11.	<u>PARA No. 16: Aeronautical Tariff</u> (i) Overall Tariff AERA is requested to review the suggestions/comments on the regulatory building blocks as mentioned under Annex – A, which is likely to reduce the ARR requirements of the airport operator. This will further ensure the lowering of tariff including UDF, which will be beneficial to passengers and airlines. (ii) User Development Fee Collection Charges - The Consultation Papers state *"To be eligible to claim collection charges, the airlines should have no overdue on any account with AAI."* IndiGo humbly submits that since collection charges are primarily for rendering of service of collection of UDF as part of ticket, and does not have any correlation with payment of utilities/rentals to the airport operators, it should be treated on a stand-alone basis and not held back on account of any other overdues in favour of the airport operator.	To encourage deposit of the amount due by the airlines to AAI within the stipulated timelines , the payment of collection charges has been made conditional that airlines should have no overdue on any account with AAI to be eligible to claim it.

	AAI will appreciate, there are certain instances wherein invoices for utilities/rentals etc. are disputed between the parties. In such cases, airlines should not be penalised in delayed recovery/disqualification of 'Collection Charges' when the airlines have deposited the UDF amounts, with the airport operator as per due timelines.	

This issues with the approval of Competent Authority.

Yours Sincerly,

(Pradeep Kumar)
Executive Director(JVC/Tariff)