

FICCI - Key aspect of DIAL consultation paper 15/2020-21

Concession Agreement should be honored in its letter and spirit:

Delhi International Airport has set an example in successful implementation of a Project of such magnitude. In order to improve infrastructure facility in India it is important to promote private investor to come forward to invest. In order to strengthen the confidence of private investor it is important that government honor the terms of concession agreement signed at the time of award of project and adhere to the support assured by government at the time of bidding. Also, in a regulated environment regulator should ensure viability of the airport.

Project cost

The Airport infrastructure is highly capital intensive infrastructure. Airports are the gateway to the country and required to maintain highest level of service in order to meet international standards. Accordingly these are also being developed as state of art infrastructures which can showcase country's best practices and culture. Delhi Airport in case of phase 3a works has awarded the project work through international bidding and arrived the project cost based on price discovery. As per DIAL submission the project cost for phase 3a is Rs 9794 Cr however Authority in the consultation paper 15/2020-21 has capped the project cost to Rs 9126 Cr. In this regard we would like to submit that once the cost of the project arrived based on price discovery then it is the efficient cost and accordingly in a regulatory scenario the airport operator should not be restricted to recover such cost. If this happen then the airport operator won't able to recover it's investment made leave aside a fixed return on investment. Accordingly it is requested that Authority should consider the project cost as submitted by DIAL.

Viability

Gol in it's recent stimulus package announced privatization of six more airport in India. In order to attract the private investment it is necessary that the industry showcase that the airport investment is a lucrative infrastructure investment opportunity. However, in the past, the major airport which were privatize i.e. Delhi or Mumbai, none of the airports are able to recoup its investment till date also they fall short of providing adequate return to its shareholders. The regulator should also ensure that the airport are viable as these airport contribute significantly in overall growth of economy. The regulator should also ensure that the regulatory certainty should be brought in which will clearly bring out the tariff approach to be followed for any airport and the bidders can capture it appropriately in their bids.

Return on Equity

The Authority in case of DIAL has provided 15.41% return on equity for third control period. In case of CP1 and CP2, the return on equity allowed to DIAL was 16%. DIAL in third control period is in expansion phase and expect a cash outlay of more than Rs 100 Bn. Further the COVID pandemic is going to put more stress on the airport business. These factor attributes higher risk for the airport hence the return on equity for third control period for DIAL should not be lower than the RoE allowed in previous periods. MoCA through SBI CAP had recommended for RoE in the range of 18.5%-20.5%. We request Authority to consider the range provided by SBI CAP earlier and maintain RoE in the same range.

Penalty on delay of project cost

Authority in the consultation paper 15/2020-21 for Delhi Airport has proposed 1% penalty in case the project is not completed and functional by 31st March 2023. In this regard we would like to submit that it is never in the interest of the developer to delay the completion of the project as it would rather defer its investment recovery. Accordingly, such penalty should not be imposed. Further, due to the current pandemic situation the sizable laborers have returned to their home town and the construction industry has been experiencing high level of labor shortage which will surely cost time delay to developers. The movement of persons and vehicles are also restricted in from one state to another. These factor will certainly have an impact on project timelines. Since the current situation is a pandemic event and beyond control, the authority should consider waiver of suggested penalty of 1%.

Revenue from Base Airport Charge + 10%

As per the terms of state support agreement DIAL had been given a sovereign assurance in terms of minimum revenue threshold in terms of BAC+10% in any year during the concession term after fourth year of commencement of operation. Such minimum threshold has been made available to DIAL and once provided it is fixed and should not be relooked. Hence the revenue earned from the charges equivalent to BAC+10% should not be considered for true up. Authority while truing up second control period has trued up revenue earned from BAC+10% which is not in line with the terms of the concession. Similarly Authority proposed to true up the BAC revenue to be earn by DIAL in CP III, we request Authority to consider the terms of the concession in its letter and spirit and accordingly should not true up the minimum revenue threshold to be made available to DIAL in CP III.

Revenue from existing asset-

DIAL at para 2.6.4 of the consultation paper has submitted that as per the terms of the concession the revenue generated from the existing asset i.e. the physical, tangible, intangible and other assets of whatsoever nature existing at the airport site at the time of award of concession, should not be considered as part of revenue from revenue share assets.

In accordance with OMDA and SSA provision, the definition of revenue share assets used for cross subsidy excludes revenue from existing asset. Accordingly, same should be excluded for cross subsidy purpose while tariff determination of DIAL. Such exclusion has been stipulated under the concession for the calculation of revenue from revenue share assets. In this regard we would like to submit that the authority while calculating the tariff has to strictly abide by the concession agreement as also promulgated under the statute which is the AERA Act 2008. The non-adherence of the concession grants or terms will lead to the unviability of the airport and hence Authority should consider the concession terms in its true sense and provide adequate viability support to the Airports.