Federation of Indian Airlines
E-166, Upper Ground Floor,
Kalkaji,
New Delhi - 110019.
Website: www.fiaindia.in

MOST URGENT

12 October 2018

To,
The Secretary,
Airports Economic Regulatory Authority of India (AERA),
AERA Building, Administrative Complex,
Safdarjung Airport,
New Delhi-110003.

Kind Attention: Smt. Puja Jindal

Subject: Comments & Submission of the FIA tendered in response to the AERA CP.No.16/2018-19 titled "In the matter of determination of Aeronautical Tariff in respect of Kannur International Airport for the 1st Control Period (01.04.2018-31.03.2023)"

Dear Madam,

Subsequent to the issuance of the said CP, in your presence the stakeholder consultation was held on 4.10.2018 at Authority's office, wherein a brief presentation on background, salient features including operational parameters of KIAL were discussed. The member airlines of the Federation of Indian Airlines (**FIA**) were duly present during the stakeholders meeting and raised objections on various issues pertaining to the CP. FIA had further requested for extension of time for submission of stakeholder comments on the Consultation Paper, by a period of one week, and the Authority was kind enough to accordingly extended the timeline of such submission till 12.10.2018.

By way of this present submission, FIA on behalf of its member airlines submits its preliminary objections to the said CP No. 16/2018-19 dated 14.09.2018, without any prejudice and craving to submit any additional submission as and when required.

FIA also reserves its rights to file a more detailed response, if so required.

Thanking You,

Your sincerely,

For and on behalf of Federation of Indian Airlines,

Ujjwal Dey
Associate Director

A. BACKGROUND

1. On 14.09.2018, Airports Economic Regulatory Authority of India (hereinafter referred to as the "**Authority**") had issued the File. No. AERA/ 20010/ MYTP/KIAL/ CP-II/2016-17 (Consultation Paper No. 16/ 2018-19) in respect of determination of aeronautical tariff of Kannur International Airport (**KIA**), owned and operated by the Kannur International Airport Limited (**KIAL**). For the purposes of this present submission, the (Consultation Paper No. 16/ 2018-19) as mentioned above shall be hereinafter be referred to as "**Consultation Paper**" or "**CP**".

2. The Authority had initially sought a detailed written submission from its stakeholder on the Consultation Paper by 5.10.2018.

3. Subsequent to the issuance of the Consultation Paper, the Authority held its stakeholder consultation meeting on 4.10.2018 at Authority's office in New Delhi wherein a brief presentation on background, salient features including operational parameters of KIAL were discussed. The member airlines of the Federation of Indian Airlines (**FIA**) were duly present during the stakeholders meeting and raised objections on various issues pertaining to the Consultation Paper. FIA had further requested for extension of time for submission of stakeholder comments on the Consultation Paper, by a period of one week, and the Authority had accordingly extended the timeline of such submission till 12.10.2018.

4. By way of this present submission, FIA on behalf of its member airlines submits its preliminary objections to the Consultation Paper, without any prejudice and craving to submit any additional submission as and when required.

5. At the outset, it is noteworthy that the Authority is under a bounden duty to determine the tariff in terms of:-

(a) Statutory provisions laid under the of the Airports Economic Regulatory Authority of India, Act, 2008 ("**AERA Act**");

(b) AERA (Terms and Conditions for Determination of Tariff for Airport Operators) Guidelines, 2011 ("**AERA Guidelines**");

(c) 'Airports Economic Regulatory Authority of India (Terms and Conditions for Determination of Tariff for Services Provided for Cargo Facility, Ground Handling and Supply of Fuel to the Aircraft) Guidelines 2011' ("**CGF Guidelines**"); and

(d) Regulatory jurisprudence and settled principles of law creating a level playing field to foster competition, plurality and private investments in the civil aviation sector.

B. CONTEXT OF THE CONSULTATION

6. To assist the Authority in appreciating these submissions on the Consultation Paper, FIA would like to state that the present submissions are without prejudice to our right and contentions, reserving FIA's right to submit additional submissions/objections at later stage and subject to the following: -

(a) In para 3.1 of the Consultation Paper, it is stated that KIAL had earlier made Multi Year Tariff Proposal (MYTP) submission to the Authority for determination of tariffs for the 1st control period for KIA under the Hybrid Till on 22.04.2016. Subsequently, KIAL filed revised submissions dated 31.08.2016, 25.11.2016, 22.02.2018 and 29.05.2018 and additional justifications/ clarifications dated 31.05.2016, 25.10.2016, 07.11.2016, 17.04.2018, 09.05.2018, 07.07.2018, 08.07.2018, 10.07.2018, 12.07.2018 and 14.07.2018.

It is not denied that FIA is not the stakeholder for determination of tariff of KIA. FIA submits that as per a catena of judicial pronouncements, it is a well settled principal of doctrine of natural justice - '**audi alteram partem**' (meaning, hear the other side), that before taking any decision/action affecting the rights and liabilities of an individual/entity, an opportunity of showing cause and to submit response thereto has to be afforded to the person whose rights and/or liabilities may be affected. This principal is further enshrined under section 13 (4) of the AERA Act, which provides that the Authority shall ensure transparency while exercising its powers and discharging its functions, inter alia:

(a) by holding due consultations with all stakeholders with the airport;
(b) by allowing all stake-holders to make their submissions to the authority; and
(c) by making all decisions of the authority fully documented and explained.

FIA would also like to mention that in the recent Order dated 23rd April, 2018 passed by the Hon'ble Telecom Disputes Settlement & Appellate Tribunal, New Delhi in the case of *Federation of Indian Airlines vs. Airport Economic Regulatory Authority of India & Ors*. - AERA Appeal No. 6 of 2012 and Delhi International Airport Ltd. (DIAL) vs. *Airport Economic Regulatory Authority of India & Ors*. - Appeal No. 10 of 2012 (**DIAL Order**), it has been inter alia held that "…*request for supply of documents by a stakeholder should ordinarily be accepted*" and "…*There is no doubt that the principles of fairness and transparency are very valuable and must be scrupulously followed by the Regulator in the exercise of fixation of tariffs*.."

FIA submits that it has not been provided with the copies of the submissions of KIAL dated 22.04.2016, 31.08.2016, 25.11.2016, 22.02.2018 and 29.05.2018 and additional justifications/ clarifications dated 31.05.2016, 25.10.2016, 07.11.2016, 17.04.2018, 09.05.2018, 07.07.2018, 08.07.2018, 10.07.2018, 12.07.2018 and 14.07.2018 made by KIAL. Accordingly, in the absence of the receipt of such submissions made by KIAL, FIA unable to appreciate, assess and comprehend the facts and figures (and any comparison thereto) of the Consultation Paper in its entirety and actuality. Thus, FIA hereby request that the above mentioned MYTP submissions as submitted by the KIAL may be made available to all the stakeholders (including FIA) for perusal and comments so as to ensure complete transparency and to enable FIA to submit requisite and consolidated observations / comments to the present Consultation Paper.

7. Pursuant to the enactment of the AERA Act, the Authority has been established to perform the functions vested under the AERA Act including Section 13 of the Act, which includes determination of tariff for aeronautical services, viz.-

(a) Section 2(a) of the AERA Act defines "aeronautical services".

(b) Section 13 (1)(a) of the AERA Act provides that the tariff for such aeronautical services at a major airport is to be determined by the Authority after taking into consideration various factors, being:-

(i) The capital expenditure incurred and timely investment in improvement of airport facilities;

(ii) The service provided, its quality and other relevant factors;

(iii) The cost for improving efficiency;

(iv) Economic and viable operation of major airports;

(v) Revenue received from services other than the aeronautical services;

(vi) The concession offered by the Central Government in any agreement or memorandum of understanding or otherwise;

(vii) Any other factor which may be relevant for the purposes of the AERA Act.

8. 'Determination' by the Authority:

(a) Section 13(1)(a) of the AERA Act requires the Authority to 'determine' the tariff for aeronautical services. Any 'determination' by a statutory authority must clearly show the application of mind and analysis carried out by the Authority. However, in the present case, the Authority has proposed to allow various expenditures/projections like Operating Expenditure, Capital Expenditure, Asset and Operating Expenditure ratios, Traffic projections, Tariff Rate Card, etc. merely on the basis of KIAL's submissions and but has failed to provide any justification of its own or analysis for the same. In fact, it appears that the Authority has failed to initiate/conduct an independent assessment or obtain an expert opinion in order to determine or conclude in a reasonable determination of such costs/projections. It is to be noted that to ensure transparency while exercising its discharge of functions by the Authority under AERA Act it is implied obligation to produce all relevant document and make decision which are fully documented and explained.

In this regard judgment of the Hon'ble Supreme Court in the case of **Ashok Leyland Ltd. vs. State of Tamil Nadu & Anr. reported as (2004) 3 SCC 1** **(FB)(at Paragraph No. 94)** is noteworthy. Hon'ble Supreme Court has held that the word 'Determination' must also be given its full effect to, which pre-supposes application of mind and expression of the conclusion. It connotes the official determination and not a mere opinion or finding. The Hon'ble Telecom Dispute Settlement Appellate Tribunal ("**TDSAT**") has also held that determination requires application of mind in the Judgment dated 16.12.2010 in Appeal No. 3(C) of 2010 titled as **ZEE Turner Ltd. vs. TRAI &Ors. (at Paragraph No. 150).**

(b) Section 13(1)(4)(c) of the AERA Act mandates that any decision by the Authority must be fully documented and explained.

9. To the dismay of the Stakeholders (including airlines), the Authority vide the present Consultation Paper has *simplicitor* accepted KIAL's claims under the MYTP without conducting its own independent financial study and prudence check or commissioning experts, for eg. in matters relating to evaluation capital and operating expenditure, allocation of aeronautical and non – aeronautical assets, non-aeronautical revenue, traffic projections etc.

10. It is regrettable that the Authority in the year 2012 i.e. at the time of issuance of DIAL Tariff Order (No.3/2012-13) had decided to commission its own experts has failed to do so till now.

C. ISSUEWISE SUBMISSIONS

I. Alleged 'Shortfall' in the revenue of KIAL (*arising due to difference in tariff calculated between the projected aeronautical yield and Aggregate Revenue Requirement (ARR)*) to be reviewed/curbed by the Authority, basis adjustment to the regulatory building blocks under ARR mechanism.

FIA submits that in terms of the Consultation Paper and as further clarified in the stakeholders consultation meeting dated 4.10.2018, it appears that the tariff card of KIA has been adopted or benchmarked largely on the tariff card of the Cochin airport, as KIAL is allegedly said to have undertaken a higher risk due to (a) first time operations at the greenfield airport, which is expected to yield a lower traffic profile in the initial years and (b) intense competition from other airports in the states namely - Cochin, Trivandrum, and Calicut.

FIA submits that, it can be seen that despite the higher tariff benchmarking of tariff done as per the Cochin Airport, there is a shortfall in the revenue requirement of KIAL, when compared with the Aggregate Revenue Requirement (ARR) of KIAL. As per Proposal 6.a of the Consultation Paper, the Authority has considered the ARR and its resultant shortfall of INR 376.58 crores, which represents 26% of the ARR (see table below). FIA further understands that such shortfall will be trued up in the next control period which may lead to increase in tariffs.

ARR and shortfall for the first control period as per the Authority

Table #24 on Page 24 of CP No. 16/2018-19 INR crores

S. No.	Particulars	FY19	FY20	FY21	FY22	FY23	Total	% of ARR
A	Average Regulatory Asset Base	881.08	1,732.30	1,672.56	1,612.82	1,553.07		
B	Fair Rate of Return	13.06%	13.06%	13.06%	13.06%	13.06%		
C	Return on RAB at %	115.06	226.22	218.41	210.61	202.81	973.11	67%
D	Depreciation	29.79	59.74	59.74	59.74	59.74	268.76	18%
E	Operating Expenditure	11.06	47.13	54.27	62.42	71.88	246.76	17%
F	Tax	-	-	-	-	5.71	5.71	0.4%
G	Subtotal [C+D+E+F]	155.91	333.08	332.43	332.77	340.15	1,494.34	102%
H	Less: 30% cross subsidiztion of non-aero revenues	(2.45)	(5.87)	(7.02)	(8.36)	(9.93)	(33.63)	(2%)
I	Aggregate Revenue Requirement (ARR) [G+H]	153.46	327.21	325.41	324.42	330.21	1,460.71	100%
J	Discount factor	0.94	0.83	0.74	0.65	0.58		
K	PV (Discounted ARR)	144.40	272.24	239.46	211.16	190.10	1,057.37	
L	Aeronautical Revenues	79.88	182.13	206.29	232.64	262.05	962.98	
M	PV (Discounted Aeronautical revenues)	75.16	151.53	151.81	151.42	150.86	680.78	
N	Shortfall [K-M]	69.24	120.71	87.66	59.74	39.24	376.58	26%
Passengers (domestic + international) [in millions]		1.61	1.81	2.03	2.26	2.51	10.22	
Yield per passenger (INR)		953.19	1,807.80	1,602.98	1,435.48	1,315.59	1,429.27	
Shortfall per passenger (INR)		430.05	666.89	431.80	264.34	156.35	368.47	

In this regard, FIA submits that adopting or modelling the tariff of KIA with an existing airport like Cochin and further determining the tariff not as per ARR mechanism, is in a breach or an action in contravention of the AERA Guidelines. FIA submits that such an approach by the Authority wherein the pre -determined tariff (based on Cochin airport) when factored with estimated traffic is generating lower revenue as compared to ARR (under the AERA Guidelines) and consequently resulting in a shortfall, is flawed and needs to be discarded.

FIA further submits that the one of the key reasons of such shortfall is also due to the fact of acceptance of KIAL's submission in all building blocks like, higher Regulatory Asset Base (RAB), Fair Rate of Return on Equity (FRoR), operating expenditure, aero allocation ratios and lower non-aeronautical revenue; which have cumulatively led to a higher ARR. For eg. as per Para 11.3 of Consultation Paper, the traffic has been projected based on the assumption that KIA shall be included as a point of call for foreign carriers. However, as there has been no confirmation in this regard, the traffic projections as presently submitted by KIAL, are already on the higher side. It is pertinent to note that in case KIA is not declared as a point of call for foreign carriers, the actual traffic will decrease with respect to the projections and the shortfall will widen further. If current shortfall is to be recovered from airlines and passengers through increase in tariffs, the rates will be higher than that of other comparable airports (Cochin, Trivandrum and Calicut) and hence it is submitted that the viability and affordability of the KIA for the airlines and passengers will be significantly hampered.

FIA submits that the Authority should expressly review the measures to contain the 'shortfall' by adjusting the current building blocks of ARR of KIAL (as discussed in the issues mentioned below). It is further submitted that the Authority should not permit benchmarking of higher tariff comparable with established airports in the state (like Cochin), as it will impact the viability and affordability of the airlines and passengers operating/flying to KIA.

II. Authority has accepted KIAL's submission on capital expenditure (including IDC & pre-operative expenses) as is, without considering a) technical evaluation / scrutiny by an independent agency b) analysis of budgeted cost vs. actual cost and resultant overruns and c) normative order parameters or other comparative airport expenditure

FIA submits that the Authority has accepted the capital expenditure (including IDC & Pre-operative expenses) proposed by KIAL on an "as is basis", without any application of mind or technical evaluation/scrutiny. Further, the Authority has failed to highlight whether the capital expenditure incurred/proposed to be incurred is within the budgeted cost or whether KIAL foresees any cost overruns.

Further, the Authority needs to scrutinize that out of capital expenditure of KIAL as agreed to be considered by the Authority till FY 19 of INR 1,791.96 crores, how much cost has been incurred and what are the remaining/balance costs. Further, the Consultation Paper is silent on any certificate of PMC or other independent agency to confirm the capital expenditure.

FIA further submits that the Authority has neither considered the Normative Order No. 07/2016-17 (*In the matter of Normative Approach to Building Blocks in Economic Regulation of Major Airports – Capital Costs*) while allowing the proposed capital expenditure, and nor considered capital expenditure of other airports in Kerala, for benchmarking any capital expenditure:

Summary of capital expenditure proposed to be considered by the Authority for 1st control period

Reference from Table #5 on Page 11 of CP No. 16/2018-19 INR crores

#	Particulars	Total cost as per KIAL	Additions to RAB as per KIAL	Proposed additions to RAB by AERA in CP16	Area (sq. metre)	Rate per sq. metre (INR)	Remarks	Aero allocation as per Authority	% aero allocation in Cochin airport in 2nd control period	Note#
A	Land	316.00	131.67	-	-	-	KIAL has included land cost, which has been excluded by the Authority	0%	0%	1
B	Buildings	859.73	816.74	816.74	83,612.74	180,843	As per Normative approach the ceiling for rate should be INR 65,000 per square metre	95.00%	69.28%	2
C	Plant & machinery	430.13	408.62	408.62				95.00%	86.79%	
D	Runway, Roads & Culverts	809.20	768.74	303.24	Not available	-	Area for runway, roads and culverts has not been provided in CP16	95.00%	100.00%	3
E	Subtotal (A+B+C+D)	2,415.06	2,125.78	1,528.61						
F	IDC	172.21	163.60	163.60				95.00%	-	4
	IDC as % of (subtotal - A)	*8.20%*	*8.20%*	*10.70%*						
G	Pre operative expense	105.00	99.75	99.75			INR 105 crores has been taken on adhoc basis equivalent to 5% of capex (excluding land)	95.00%		5
	Pre op as a % of (subtotal - A)	*5.00%*	*5.00%*	*6.53%*						
H	Total (E+F+G)	2,692.27	2,389.13	1,791.96						

(a) As per Para 2.5 of the Consultation Paper, presently, 500 acres, representing 42% of the total 1,192.18 acres, has been utilized for KIAL project. The Authority has rightly proposed to exclude cost of land from additions to RAB until a decision on treatment of land cost is finalized Consultation Paper No. 04/2018-19 "*In the matter of Determination of Fair Rate of Return (FRoR) to be provided on Cost of Land incurred by various Airport Operators of India*" dated 23.04.2018.

(b) Based on Table 3 on page 9 of the Consultation Paper, buildings and plant & machinery forms a part of additions to the terminal area. 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, ceiling cost per sq. metre for terminal building is INR 65,000. However, in the case of KIAL, the per sq. metre rate was noted to be INR 180,843 (Integrated terminal building area of 9 lakh sq. feet as per Table 1 of Consultation Paper, equivalent to 83,612.74 sq. metres). This is almost 2.75 times of the capital expenditure as per Normative Order. Also, as per Para 7.8 of CP 5/2014-15, cost of per sq. meter of a modern airport terminal building varies between INR 43,333 per sq. mtr (Cochin) to INR 145,000 (Bangalore). Hence, the cost per sq. meter of the terminal building in KIAL is significantly higher than this range.

FIA would like to highlight that the cost per sq. meter of terminal building of Cochin and Trivandrum airport is INR 43,333 and INR 125,652 which is significantly lower than that at KIAL. Also, the Authority has compared these airports with KIAL for operating expenditure and non-aeronautical revenue, but not for capital expenditure.

(c) Out of total proposed cost of INR 820.98 crores, expansion of runway proposed by KIAL in FY21 amounting to INR 465.50 crores has not been accepted by the Authority. The area for the runway has not been provided in the Consultation Paper. Hence, FIA would not be able to comment on whether Normative Order No. 07/2016-17 has been considered by the Authority while accepting KIAL's submission with respect to capital costs towards runway, roads and culverts. As per the said order, the cost per sq. meter should not exceed INR 4,700 per sq. meter.

(d) Interest during construction (IDC) has been considered by the Authority on an "as is basis". Further, the Authority has not provided any details of IDC of INR 172.21 crores (c. 8.20% of the total cost submitted by KIAL) have been furnished in the Consultation Paper for stakeholder's review.

(e) Pre-operative expenses of INR 105 crores (c. 5.00% of total cost submitted by KIAL) seems to be on adhoc basis and has not been evaluated/discussed by the Authority in the Consultation Paper. Hence, it is submitted that Authority evaluate the pre-operative expenses in detail and put a capping rather than leaving it at the discretion of KIAL and subsequent true up, otherwise the airport operator would not make palpable efforts to contain the cost.

(f) Largest component of plant & machinery costs is mentioned as 'Other Equipment' worth INR 160.42 crores (c. 9% of the capital expenditure accepted by AERA) without any further details of the type of equipment. This shows a lenient approach taken by Authority while scrutinizing KIAL's submission.

Hence, FIA submits that the Authority ought to confine itself to the normative norms i.e. Normative Order No. 07/2016-17 while determining the capital expenditure/RAB for the 1st control period at the time of passing order.

III. Authority has accepted the asset allocation ration submitted by KIAL without any independent evaluation

FIA submits that as per proposal 1.c. of the Consultation Paper, "*the Authority has tentatively accepted the allocation of assets into aeronautical and non-aeronautical assets in the ratio 95:5. A detailed study will be conducted to determine the actual usage before true up in the next control period*". The Authority has essentially relied on KIAL's submission for the purpose of computing allocation of assets into Aeronautical and Non-Aeronautical categories. FIA submits that allocation of the airport assets between Aeronautical or Non-Aeronautical categories is critical under Shared Till approach (without prejudice to Single Till approach advocated by FIA), hence the same should be carried out on the basis of an independent study rather than on tentative basis which is based on KIAL's submission.

The Authority has proposed to carry out a technical study on the area between Aeronautical and Non-Aeronautical for next control period, this approach of the Authority will result in significant delay in testing of actual allocation ratios and during which passengers and airlines will be burdened by high tariffs.

FIA would like to highlight that aero allocation ratio of Cochin Airport for Buildings is c. 69.28% and that for Plant & Machinery is c. 86.79%. Also, the aero allocation ratio proposed as per CP 5/2014-15 on Normative Approach is 80%. Hence, in case the Authority considers or accepts the aeronautical asset at 95%, the same will increase the RAB and will consequently burden airlines and passengers.

FIA submits that rather than accepting KIAL's submission, Authority should to consider the asset allocation ratio of 80%:20% in the 1st control period to reduce ARR & minimize shortfall and conduct independent study on asset allocation which may be used for truing up in the 2nd control period.

Further, FIA would like to highlight that return on RAB is c. 67% of the total ARR for the first control which is significantly higher than the share of return on RAB at other airports as per table below:

Comparison of return on RAB as a % of total ARR — INR crores

Particulars	1st control period	2nd control period		
	KIAL	Calicut	Cochin	Trivandrum
Return on RAB	973.11	129.40	802.46	296.16
% of total ARR for the respective airports	67%	27%	40%	23%

Hence, FIA submits that the Authority needs to scrutinise the additions to RAB in detail rather than leaving it for true up in subsequent control periods, as a higher return on RAB is generated. FIA also submits that the Authority should have scrutinized capex on technical and economic grounds before considering it as additions to RAB rather than relying on KIAL's submission on garb of truing up.

IV. Authority has not scrutinized the reasonableness of operating expenditure and proposed true up in the second control period. Lower Operating expenditure per passenger of the other airports of same state has been presented but not considered in proposed Operating expenditure. Authority has accepted allocation ratio submitted by KIAL and no independent study is proposed in the Consultation Paper

The Authority has accepted the operating expenses submitted by KIAL on an "as is" basis, except in case of security expenses wherein CISF cost has been excluded being part of PSF. Hence, Authority has not scrutinized the reasonableness of operating expenditure and proposed true up in the second control period.

Further, as per Proposal 3.b. of the Consultation Paper, the Authority proposes to accept allocation of aeronautical and non-aeronautical expenses in the ratio of 95%:5% without conducting an independent analysis for the expenses in the first control period, and further, no study for such allocation has been proposed. Hence, the present ratio of 95:5 does not have any basis and is tentative, which depicts a very lenient approach of the Authority. However, till the time study is conducted, FIA would like to highlight aero allocation ratio proposed as per CP 5/2014-15 on Normative Approach is 80%, hence it is submitted that aero expenditure should be considered at 80% in the first control period at the time of passing the order of KIAL.

Further, it is submitted that the Authority should order for independent study for determining the reasonableness of allocation ratios and consider the same at the time of passing order on Consultation Paper (on basis of that study) on issues like 'bifurcation of expenditures into aeronautical & non aeronautical instead of leaving it for truing up without assigning any cogent reasons.

Operating expenditure as considered by Authority

Reference from Table #13 on Page 16 and Table #16 on Page 17 of CP No. 16/2018-19 — INR crores

Particulars	FY19	FY20	FY21	FY22	FY23	Total	% of total	Aero	% Aero	Basis of AERA's projection for first control period	YoY FY20	YoY FY21	YoY FY22	YoY FY23	CAGR
Land Lease Rental	0.01	0.01	0.01	0.01	0.01	0.06	0%	0.06	95%	INR 100 per acre per annum for 1,176.48 acres of land assumed to be leased in from KINFRA for future development of the airport	0%	0%	0%	0%	0%
Employee Costs	4.33	10.56	12.79	15.37	18.44	61.49	24%	58.41	95%	INR 54 per passenger for employee salary with annual escalation of 8%	22%	21%	20%	20%	44%
Power & Water	1.61	3.91	4.74	5.70	6.83	22.78	9%	21.64	95%	INR 20 per passenger for power, water and fuel charges with annual escalation of 8%	22%	21%	20%	20%	44%
Repair and Maintenance	-	18.86	20.37	22.00	23.76	84.99	33%	80.74	95%	1% of each of the civil cost & equipment cost for the year in which airport operations are commenced with annual escalation of 8%	0%	8%	8%	8%	8%
Administration	2.41	5.86	7.10	8.54	10.24	34.16	13%	32.45	95%	INR 30 per passenger with annual escalation of 8%	22%	21%	20%	20%	44%
Marketing Costs	0.88	2.02	2.29	2.60	2.95	10.74	4%	10.21	95%	1% of total revenues excluding UDF	15%	13%	14%	13%	35%
Security	2.41	5.86	7.10	8.54	10.25	34.16	13%	32.45	95%	Unavailable	22%	21%	20%	20%	44%
Stores and Spares	-	2.52	2.73	2.94	3.18	11.37	4%	10.80	95%	0.5% of all equipment cost with annual escalation of 8%	0%	8%	8%	8%	8%
Subtotal	**11.65**	**49.61**	**57.13**	**65.70**	**75.66**	**259.75**	**100%**	**246.76**	**95%**		**113%**	**15%**	**15%**	**15%**	**60%**

FIA submits that the Operating expenditure represents 17% of ARR, hence, the Authority should have evaluated these expenses in detail rather than broadly relying on projections and basis provided by KIAL.

Further, with regard to projected expenses from FY19 to FY23 in the Consultation Paper, the Authority;

a) had accepted the basis of key expenses like employee costs and repair & maintenance as forecasted by KIAL;

b) has made certain modifications with respect to security expense and

c) has made upward revisions in the submissions of KIAL for marketing costs. Moreover, the basis for security expense post revisions from Authority is not clearly mentioned in the Consultation Paper.

The operating expenditure per passenger for the entire 1st control period was noted to be INR 254 per passenger (including both domestic and international passengers). Based on the broad range of INR 176 to INR 259 given in CP 5/2014-15 "In the matter of normative approach to building blocks in economic regulation of major airports" for FY13, it is to be noted that the operating expenditure per passenger is significantly higher than that for Cochin (INR 176 per passenger for FY13), which is a similar airport to KIAL. This is further evaluated in Table 15 of the Consultation Paper, wherein opex per passenger for FY19 for KIAL (INR 335.24) is significantly higher than that for Cochin (INR 222.10) and Calicut (INR 213.40) for the same period.

However, the Authority has presented and compared these benchmarks, but not applied these benchmarks in proposing the operating expenditure of KIAL and rather relied upon KIAL's submission. FIA has analysed opex per passenger for 1st year control period of KIAL with that of Cochin and Calicut rather than comparing opex of first six months of operations of KIAL.

Airport-wise comparative O&M expenditure per passenger for FY19

Table #15 on Page 17 of CP No. 16/2018-19 INR

Particulars	KIAL	Calicut	Cochin	Trivandrum
Repair and Maintenance	-	31.05	48.10	11.94
Employee Costs	54.00	104.25	77.01	73.00
Security	226.59	NA	6.94	NA
Administration	30.00	54.58	20.56	28.25
Power & Water	20.00	22.88	44.45	13.96
Stores and Spares	-	0.65	5.55	0.83
Marketing Costs	4.58	NA	-	NA
Land Lease Rental	0.07	NA	19.49	NA
Total operating expenditure	**335.24**	**213.41**	**222.10**	**127.98**

V. **Authority has compared half year expenses of KIAL with full year operating expenses of other comparable airports of Kerala. The operating expenses per passenger in KIAL for key costs are 2x to 4x of other airports, which suggest higher operating expenditure has been propose which has resulted in higher ARR and in turn a shortfall. Authority has not provided any justification for the upward revision of marketing costs.**

As per Para 7.5 of the Consultation Paper, the Authority has stated that "since other expenses proposed by KIAL are within the benchmark range in comparison to per passenger costs at other airports, the Authority has proposed to allow such expenses for the current control period". However, as per the comparison done by Authority for operating expenditure per passenger across different airports for FY19, it can be clearly noted that KIAL has a significantly higher operating expenditure per passenger at INR 335.24 as opposed to other airports and is not within the benchmark range of expenses. Moreover, the expenses considered for KIAL in FY19 is for half year and the comparison is being done with full year operations of other comparable operational airports of Kerala. Hence, it is submitted that the comparison done by Authority is not relevant from the point of view of keeping a conservative benchmark for the first control period.

FIA has conducted analysis, wherein instead of comparing a single year of operations, the complete 5-year control period is considered across airports for the sake of comparing operating expenditure per passenger.

Based on the analysis, it is submitted that key costs per passenger such as those of repair and maintenance, security, administration and stores & spares are 2x to 4x of other comparable airports as highlighted in table below:

Comparison of opex per passenge over latest control period INR

Particulars	1st control period	2nd control period	
	KIAL	Calicut	Cochin
Repair and Maintenance	83.16	32.33	32.27
Employee Costs	60.16	107.20	82.34
Security	33.42	-	7.08
Administration	33.42	58.38	18.02
Power & Water	22.29	22.95	42.06
Stores and Spares	11.12	-	5.50
Marketing Costs	10.51	-	-
Land Lease Rental	0.06	-	-
Opex per passenger	254.16	220.86	187.28
Total passengers (millions)	10.22	15.40	50.08

It is submitted that Authority has not evaluated benchmarks in detail and has accepted a high operating expenditure contributing towards the shortfall in ARR. However, considering the shortfall in ARR, the Authority should consider lowest opex per passenger reflecting in comparable airports.

Marketing costs were only noted for KIAL and no other comparable airport. Authority has not discussed details of this expense head. Moreover, there has been an upward revision by the Authority in the marketing cost proposed by KIAL for which no justification has been discussed. Hence, it is submitted that Authority has failed to evaluate the operating expenditure and provided upward revisions without any justifications thereof.

Considering the approach of the Authority for reviewing the operating expenditure is not in line with provision of AERA Guidelines, it is therefore submitted that in order to assess efficient operating expenditure and reasonableness of opex, the Authority should have conducted technical evaluation and not accepted KIAL's submission as is in garb of truing up in subsequent control period. Also, for the current control period, lowest opex per passenger of INR 127.98 of Trivandrum, highlighted in Table 15 of Consultation Paper to be considered for computing operating expenditure per passenger at the time of passing order.

FIA submits that the aero operating expenditure be considered at 80% in the 1st control period to reduce ARR & minimize shortfall. Further, the Authority needs to conduct independent study for allocation of operating expenditure which may be used for truing up in the 2nd control period.

FIA further submits that for the current control period, lowest opex per passenger of INR 127.98 of Trivandrum, highlighted in Table 15 of the Consultation Paper to be considered for computing operating expenditure per passenger at the time of passing order to reduce ARR & minimize shortfall. Also, an independent technical evaluation of expenses be undertaken for true up in the next control period.

VI. Authority has accepted KIAL's submission on debt equity ratio. No debt repayment schedule has been provided for stakeholder consultation. No true up has been proposed for the debt equity ratio in second control period.

As per proposal 2 of the Consultation Paper, the Authority has proposed to consider the Cost of Equity at 16% p.a. and FRoR at 13.06% p.a. for KIAL for the first control period. FRoR of 13.06% used in Tariff model by the Authority is tentative and based on the following assumptions:

(a) Steady growth in the average retained earnings as part of the equity portion, which decreases the debt equity ratio and in turn increases FRoR by virtue of a higher cost of equity (16.00%) than cost of debt (10.05%).

(b) Debt repayments as submitted by KIAL have been accepted without any detailed discussion in the Consultation Paper. No repayment schedule of such debts has been discussed for stakeholder consultation. This results in decrease of the debt equity ratio and in turn increases FRoR by virtue of a higher cost of equity (16.00%) than cost of debt (10.05%)

Capital structure and FRoR as per the Authority

Table #12 on Page 15 of CP No. 16/2018-19 — INR crores

Asset head	FY19	FY20	FY21	FY22	FY23	Average
Average Equity	979.57	998.92	998.92	998.92	998.92	
Average Retained Earnings	7.92	35.52	87.47	168.69	285.22	
Average Debt	990.00	1,200.00	1,172.73	1,090.91	981.82	
Total	1,977.49	2,234.44	2,259.12	2,258.52	2,265.96	
Cost of Debt	10.05%	10.05%	10.05%	10.05%	10.05%	10.05%
Cost of Equity	16.00%	16.00%	16.00%	16.00%	16.00%	16.00%
Debt equity ratio	50:50	54:46	52:48	48:52	43:57	49:51
FRoR						13.06%

Each of the above-mentioned assumptions has led to an inflated FRoR of 13.06%. In comparison, the cost of equity and FRoR for Cochin Airport for second control period is 14% and 11.17% respectively. Also, the FRoR of KIAL is highest among the airports which are presented by the Authority in Table 11 of the Consultation Paper. FRoR is high at 13.06% as the financing structure is more equity driven (debt equity ratio is 49:51) which is not very efficient also due to higher return of equity which is at 16%. Any security deposits to be received has not been considered by the Authority. Also, average debt and equity balances are considered or closing balances are considered is not clarified by the Authority in the Consultation Paper.

As part of the Proposal 2 regarding FRoR, while Authority has proposed a true up based on actual cost of debt and cost of equity, no true up has been proposed to the debt equity ratio/ gearing ratio for the first control period. Considering (a) 67% share of the ARR is return on RAB; (b) shortfall in recovery ARR from Tariff primarily because of higher return.

FIA submits that the Authority to consider the return of equity @ 14% and debt equity ratio at 60:40, in order to avoid overburdening of passengers and airlines. This will also ensure viability of operations of airport. Also, the Authority to ensure that the security deposits to be received should be included in computation of FRoR at zero rate of return.

VII. In the garb of truing up, Authority has accepted KIAL's submission on the projections of non- aeronautical revenue without conducting technical evaluation or assessing non-aeronautical revenues for similar airports. Higher non aero revenue per passenger of similar airports of same state has been presented but not considered in proposed non aero revenue, leading to higher ARR

As per proposal 4 of the Consultation Paper, the Authority has accepted the revenue projections and basis suggested by KIAL and has proposed that the same would be true up on the basis of actuals during second control period.

Non-aeronautical revenue as considered by Authority

Reference from Table #17 on Page 19 and Table #20 on Page 20 of CP No. 16/2018-19

INR crores

Particulars	FY19	FY20	FY21	FY22	FY23	Total	% of total	Basis of AERA's projections for 1st control period	YoY FY20	YoY FY21	YoY FY22	YoY FY23	CAGR
Duty Free Shop	4.17	10.14	12.27	14.76	17.72	59.06	53%	Assumed that duty free activities will be outsourced with royalty of 25%. Revenue assumed at USD 35 per passenger for 10% of total international passengers in a year with annual escalation of 8%	21%	21%	20%	20%	44%
Car Park Revenue	1.20	2.93	3.55	4.27	5.12	17.07	15%	Assumed that 25% of passengers will opt for car parking slots. Rate assumed at INR 60 per vehicle with annual escalation of 8%	22%	21%	20%	20%	44%
F&B services	1.04	2.53	3.07	3.69	4.43	14.76	13%	Assumed at 25% of revenue from duty free services	21%	21%	20%	20%	44%
Flight Catering Services	0.64	1.46	1.65	1.86	2.10	7.71	7%	Assumed 4% of total aeronautical revenue as royalty from flight catering services	13%	13%	13%	13%	34%
Space Lease Rental	0.59	1.30	1.44	1.58	1.74	6.65	6%	Based on estimated commercial, retail & hospitality spaces. Rate is arrived at by benchmarking with other operational airports	10%	11%	10%	10%	31%
Public Admission Charges	0.38	0.93	1.13	1.36	1.63	5.43	5%	Assumed two visitors per passenger, out of which 5% of visitors will enter terminal building. Entry ticket assumed at INR 25 (domestic terminal) and INR 50 (international terminal)	21%	21%	20%	20%	44%
Advertising	0.12	0.28	0.30	0.33	0.37	1.41	1%	Assumed at INR 250,000 per advertisement with annual escalation of 10%. 10 such advertisement boards are considered per year	15%	5%	10%	12%	31%
Total	8.16	19.57	23.41	27.85	33.11	112.10	100%		20%	20%	19%	19%	42%

As per the above table, the Authority has considered a 20% increase from FY19 onwards on the total non-aeronautical revenue. This increase is a combination of the annual escalation of 8% (across top 3 non-aero revenue streams), passenger growth % and certain assumptions as mentioned in the above table.

The Authority has considered the land lease revenue for aircraft maintenance centre, logistics and redistribution centre and fuel farm as Aeronautical as opposed to KIAL's submission, wherein these revenues were submitted as part of the non-aeronautical revenues. Accordingly, Authority has rightly proposed to treat such revenues as revenue from aeronautical services.

As per clause 5.6.1 of the AERA Guidelines, the Authority's review of forecast of revenues from services other than aeronautical services may include scrutiny of bottom-up projections of such revenues prepared by the Airport Operator, benchmarking of revenue levels, commissioning experts to consider where opportunities for such revenues are under-exploited, together with the review of other forecasts for operation and maintenance expenditure, traffic and capital investment plans that have implications for such activities.

However, review of the Consultation Paper indicated that for the purpose of determining Non Aeronautical Revenue, the Authority, rather than evaluating non aeronautical revenue in detail as per AERA Guidelines, has relied upon basis provided by KIAL.

VIII. Authority has not appropriately evaluated the benchmarks of Non - Aeronautical. Key heads of Non-Aero revenue per passenger of similar airports are 2x to 25x of KIAL's corresponding revenue. Cross subsidization of Non-Aeronautical revenue constitutes only 2% of ARR in KIAL as opposed to approx. 10%-15% for other airports

As per Para 8.6 of the Consultation Paper, the Authority has stated that "*since non-aeronautical revenues proposed by KIAL are within the benchmark range in comparison to non- aeronautical revenue per passenger at other airports, the Authority has proposed to allow such revenues for the current control period*". However, as per the comparison done by Authority for non- aeronautical revenue per passenger across different airports for FY19, it can be clearly noted that KIAL has a significantly lower non-aero revenue per passenger at INR 53.98 as opposed to other airports and is not within the benchmark range of non-aero revenues.

It is submitted that the comparison done by Authority is not relevant from the point of view of keeping a conservative benchmark for the first control period. It is further submitted that Authority has not evaluated benchmarks with due care and has accepted a low projection of non-aero revenue which has contributed towards the shortfall in ARR.

Airport-wise comparative non-aero revenue per passenger for FY19

Table #19 on Page 20 of CP No. 16/2018-19 INR

Particulars	KIAL	Calicut	Kochi	Trivandrum
Duty Free Shop	25.90	57.84	100.99	40.65
Car Park Revenue	7.45	7.19	9.70	14.37
F&B services	6.46	12.75	7.67	47.48
Flight Catering Services	6.96	15.69	3.18	-
Space Lease Rental	3.66	45.10	85.20	5.85
Public Admission Charges	2.36	4.58	11.02	15.38
Advertising	0.75	7.52	6.42	3.72
Land lease revenue	0.43	6.21	9.53	18.54
Total	**53.98**	**156.86**	**233.71**	**146.28**

In key revenue heads such as duty free shop, space lease rental, land lease revenue and advertisement revenue, there is a glaring discrepancy of projections of non-aero revenue per passenger as compared to other airports, wherein the non-aero revenue per passenger for such airports is 2x (duty free shop) to 25x (space lease rental) of the non-aero revenue per passenger for KIAL. It is submitted that Authority has considered non-aero revenue per passenger within benchmarks without any justifications thereof.

It was also noted that cross subsidization of non-aero revenue for KIAL represents a meagre 2% of the ARR as opposed to other benchmark airports which range from 8% (Trivandrum) to 17% (Cochin). Hence, it is submitted that the Authority by accepting KIAL's submission has unduly underestimated the non-aero revenues which has resulted in higher ARR and in turn a shortfall.

Comparison of cross subsidization of non-aero revenue as a % of total ARR INR crores

Particulars	1st control period	2nd control period		
	KIAL	Calicut	Cochin	Trivandrum
Cross subsidization of non-aero revenues	33.63	72.50	349.04	102.40
% of total ARR for the respective airports	2%	15%	17%	8%

FIA submits that considering the approach of the Authority for reviewing the non-aero revenue is not in line with provision of AERA Guidelines, it is therefore submitted that in order to assess non-aero revenue, the Authority should have conducted technical evaluation and not accepted KIAL's submission "as is", in garb of truing up in subsequent control period.

FIA submits that for the current control period, highest non-aero revenue per passenger of INR 233.71 of Cochin, highlighted in Table 19 of the Consultation Paper to be considered for computing non-aero revenue per passenger at the time of passing order to reduce ARR & minimize shortfall. Also, independent technical evaluation of non-aero revenue be undertaken for true up in the next control period.

IX. Traffic projections are based on the study conducted by AECOM on behalf of KIAL. Projections have been accepted by the Authority as is without conducting an independent study of its own. Point of call for foreign carriers has been included without any confirmations, however impact of not including the same has not been highlighted.

As Per Para 11.1 of the Consultation Paper, in terms of the AERA Guidelines, the airport operator is required to submit traffic forecasts as part of the MYTP submissions. The AERA Guidelines further provide that the Authority would reserve the right to review such forecast assumptions, methodologies and processes to determine the final forecast to be used for determination of tariffs

The Traffic projections submitted by KIAL are based on study conducted by AECOM India Private Limited (**AECOM**). As per proposal 7 of the Consultation Paper, the Authority has proposed to consider KIAL's submission of projected passenger traffic and true up decision shall be based on actual traffic during the first control period. Hence, the Authority has accepted the projections on an "as is" basis, without conducting its own independent study.

As per Para 11.2 of the Consultation Paper, the study is based on top-down approach for traffic forecast analysis. Traffic forecasts have been made for Kerala based on the historical trend analysis of the passenger, air traffic movement and cargo traffic for scheduled operations at other international airports in Kerala, viz. Cochin, Calicut and Trivandrum and use of regression technique for forecasting. The results have then been used to arrive at the forecast for Kannur International Airport based on assumptions for likely share of Kannur Airport in the Kerala aviation market. Such assumptions of aviation market share has not been discussed in detail in the Consultation Paper.

Further, neither AECOM's report on traffic projections has been shared for stakeholder consultation nor the year in which such evaluation was done by AECOM has been disclosed by the Authority.

As per Para 11.3 of Consultation Paper, the traffic projections are based on the assumption that KIAL is to be included as a point of call for foreign carriers. However, no confirmation has been given in this regard. Hence, projected figures may be lower than that expected in case KIAL is not included as a point of call for foreign carriers. It is submitted that impact of scenario where the KIAL is not included as point of call need to be analysed in detail as it will impact ARR and viability of the airport considering there is significant shortfall in ARR with this assumption, which will increase in case foreign carriers are not included.

FIA submits that since the traffic projections are critical in ascertaining the tariffs, Authority must appoint an independent consultant to evaluate traffic forecasts submitted by KIAL, which is the role of the Authority rather relying on numbers proposed by operator. It is submitted that the detailed evaluation/study cannot be avoided in garb of truing up.

X. Authority has considered depreciation over 100% of the original cost, in contravention to AERA Guidelines. Depreciation charge is also based on KIAL's submission

As per Para 5.7 of the Consultation Paper, KIAL has followed straight line method of depreciation and depreciation rates applied to various assets are as per AERA Order No. 35/ 2017-18 "In the matter of Determination of Useful life of Airport Assets" dated 12.01.2018.

As per the AERA Guidelines Para 5.3.3, depreciation is allowed up to a maximum of 90% of the original cost of the asset on straight line basis. However, as per Order No. 35/2017-18 on useful lives, the depreciation is allowed upto 100% of the original cost, which is in contravention to AERA Guidelines.

Depreciation on assets forming part of RAB as per the Authority

Reference from Table #7 on Page 12 of CP No. 16/2018-19 INR crores

Asset head		Useful life(years)	Rate of depreciation (%)	FY19	FY20	FY21	FY22	FY23
Buildings and civil work		60	1.67%	7.96	15.96	15.96	15.96	15.96
Plant & machinery		15	6.67%	15.92	31.93	31.93	31.93	31.93
Runway, Roads & Culverts		30	3.33%	5.91	11.85	11.85	11.85	11.85
Total	**A**			**29.79**	**59.74**	**59.74**	**59.74**	**59.74**
Avergae RAB	B			881.08	1,732.30	1,672.56	1,612.82	1,553.07
Average depreciation rate	C=A/B			3.38%	3.45%	3.57%	3.70%	3.85%
Useful life (years)	100/C			30	29	28	27	26

Accordingly, by taking 10% as residual value and depreciation over 90% of the value of the asset, the depreciation reduces by 10% from INR 268.76 crores to INR 241.88 crores. However, the return on RAB increased by 1% from INR 973.11 crores to INR 981.11 crores due to increase in the average RAB by considering depreciation over only 90% of the assets. The combined effect of each of the above decreased the ARR by 1% from INR 1,460.71 crores to INR 1,441.83 crores.

Useful life with respect to Runways, Apron has been considered as 30 years in accordance with Order 35/ 2017-18; however, FIA's review of useful life of assets at various international airports indicated that these assets have useful life as long at 99 years, hence it is submitted that life of 60 years of airport assets to be considered.

XI. Authority ought to follow Single Till Model for determination of Aeronautical Tariff

As per para 4.2 of the Consultation Paper, it is stated that the Authority shall determine tariffs for KIAL using the Hybrid Till model. It is to be noted that FIA has from time to time, advocated the application of a Single Till model across the airports in India. It is submitted that Single Till is premised on the following legal framework being:

(a) Section 13(1)(a)(v) of AERA Act envisages that while determining tariff for aeronautical services, the Authority shall take into consideration revenue received from services other than the aeronautical services.

(b) Clause 4.2 of AERA Guidelines recognizes Single Till approach which sets out the following components on the basis of which ARR will be calculated:-

(i) Fair Rate of Return applied to the Regulatory Asset Base
(ii) Operation &Maintenance Expenditure
(iii) Depreciation
(iv) Taxation
(v) Revenues from services other than aeronautical services

(c) It is submitted that determination of aeronautical tariff warrants a comprehensive evaluation of the economic model and realities of the airport – both capital and revenue elements. AERA's approach of Hybrid Till for KIAL deserves to be discarded.

(d) In the Single Till Order, Authority has strongly made a case in favor of the determination of tariff on the basis of 'Single Till'. It is noteworthy that the Authority in its inter alia Single Till Order has:

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.

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.

V. The Authority 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. In this respect, the matter must be dealt with by the Authority considering the ratio pronounced by the Constitutional Bench in the Hon'ble Supreme Court Judgment in PTC vs. CERC reported as (2010) 4 SCC 603 (please ref: Paragraph Nos. 58 to 64 at Page Nos. 639 to 641) wherein it is specifically stated that regulation under a enactment/statute, as a part of regulatory framework, intervenes and even overrides the existing contracts between the regulated entities inasmuch as it casts a statutory obligation on the regulated entities to align their existing and future contracts with the said regulations.

VI. The fundamental reasoning behind 'Single Till' approach is that if the consumers/passengers are offered cheaper air-fares on account of lower airport charges, the volume of passengers is bound to increase leading to more foot-fall and probability of higher non-aeronautical revenue. The benefit of such non aeronautical revenue should be passed on to consumers/passengers and that can be assured only by way of lower aeronautical charges. It is a productive chain reaction which needs to be taken into account by the Authority.

(e) FIA therefore submits as under:

I. Single Till Model ought to be applied to ALL the airports regulated and operated by the Authority regardless of whether it is a public or private airport or works under the PPP model and in spite of the concession agreements as the same is mandated by the statute.

II. Single Till is in the public interest and will not hurt the investor's interest and given the economic and aviation growth that is projected for India, Fair Rate of Return (FRoR) alone will be enough to ensure continued investor's interest.

III. MoCA's view(s) with respect to any issue at best can be considered as that of a Stakeholder and by no means are binding to Authority's exercise of determination of aeronautical tariff as is admitted by MoCA itself before the AERAAT.

In view of the above, it is submitted without prejudice that determination of aeronautical tariff on Hybrid Till basis for the First control period would set the tone and precedent for determination of aeronautical tariff in subsequent control periods contrary to the applicable legal framework. Thus, it is submitted that Authority should discard the option of determination of aeronautical tariff on Hybrid Till and follow Single Till scrupulously.

D ADDITIONAL SUBMISSION

(a) In addition to the above submissions, it is respectfully submitted that airlines and consequently, passengers will have to bear the burden of higher Aeronautical Tariffs as proposed by KIAL and the Authority. It is noteworthy that Airlines and passengers must not be burdened with any tariff to be collected to fund the capital investments of a private concessionaire.

(b) The Authority is aware that airlines have been going through difficult times with high prices of crude oil. Increase in aeronautical tariff as proposed by the Authority will erode airlines capabilities to increase fares to sustain its operational capabilities.

(c) FIA reiterates its submission that there is a critical relationship between passenger traffic and growth of the civil aviation sector. What would benefit both the airport operator as well as the airlines is a reasonable and transparent passenger tariff, both direct and indirect – since then the airlines will be able to attract more passengers and the airports would benefit both through higher collection of aeronautical charges as also enhanced non-aeronautical revenue at the airports. In FIA's view, the airport should be regarded as a single business as its aeronautical and non-aeronautical revenues are intertwined.

(d) It is submitted that order passed by an administrative authority, affecting the rights of parties, must be a speaking order supported with reasons. It is well settled position of law that:

(i) Reasons ought to be recorded even by a quasi-judicial authority.

(ii) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(iii) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(iv) Insistence on reason is a requirement for both accountability and transparency.

(v) Reasons in support of decisions must be cogent, clear and succinct.

(vi) A pretence of reasons or `rubber-stamp reasons' is not to be equated with a valid decision-making process.

(vii) Requirement of giving reasons is virtually a part of 'Due Process'.

(e) In view of the foregoing submissions, it is submitted that the Authority ought to pass reasoned order on issues mentioned above, after the stakeholders are provided with all the relevant copies of the submissions made by KIAL and any study report conducted by technical experts etc. for making any additional/final submissions on this Consultation Paper.

(f) In view of the above, it is respectfully prayed that the Authority keeps in mind the interests of the airlines and civil aviation sector before finalizing any decisions regarding increase in Aeronautical Tariffs and other charges. KIAL's proposal, if accepted, will have cascading impact on the airlines and consequently, on the civil aviation industry.

(g) FIA humbly submits that any reliance by FIA in the present submission, on the DIAL Order dated 23rd April, 2018 passed by the Hon'ble Telecom Disputes Settlement & Appellate Tribunal, New Delhi in the case of *Federation of Indian Airlines vs. Airport Economic Regulatory Authority of India & Ors*. - AERA Appeal No. 6 of 2012 and Delhi International Airport Ltd. (DIAL) vs. *Airport Economic Regulatory Authority of India & Ors*. - Appeal No. 10 of 2012, is without prejudice to its rights and contentions before the Hon'ble Supreme Court and any reliance on the said DIAL order may not be treated as an admission.