



Federation of Indian Airlines

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MOST URGENT

11 February 2019

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

Kind Attention: Shri S. Machendranathan

Subject: Comments & Submission of FIA tendered in response to the AERA CP.No.27/18-19 titled "In the matter of determination of Aeronautical Tariffs in respect of Indore Airport for the first Control Period (01.04.2018 - 31.03.2023)"

Dear Sir,

On 14.01.2019, the AERA had issued the File. No. AERA/20010/ MYTP/AAI - Indore/ CP-I/2018-19 (CP.No. 27/2018-19) in respect of determination of aeronautical tariff of Indore Airport, owned and operated by the AAI. AERA has sought a detailed written submission from its stakeholder on the said CP by 11.02.2019. Subsequent to the issuance of the CP, AERA held its stakeholder consultation meeting on 25.01.2019 at Indore Airport.

FIA and its member airlines were duly present in the said stakeholders meeting and brought to the notice of AERA that Indore Airport proposed a capital expenditure over INR60cr but the related AUCC Minutes and the Project Investment File were not shared with the stakeholder, to which, Indore airport informed that AUCC meeting was held in 2018 and assured that the AUCC minutes will be shared with the stakeholders too. We await the AUCC Minutes and Project Investment file for the same. Additionally, FIA will also request AERA to mention detailed component level breakup of depreciation calculations along with the consolidated depreciation number for first control period (as given on page 26 of CP 27/2018-19). A ball point figure depicting depreciation is no help for thorough analysis.

By way of this present submission (in the absence of AUCC Minutes/PIF & no detail on depreciation), 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.

Thanking You & Yours Sincerely,

For and on behalf of the Federation of Indian Airlines,

UJJWAL DEY
Associate Director

A. BACKGROUND

1. On 14.01.2019, the Airports Economic Regulatory Authority of India (hereinafter referred to as the "**Authority**") had issued the File. No. AERA/20010/ MYTP/AAI - Indore/ CP-I/2018-19 (Consultation Paper No. 27/2018-19) in respect of determination of aeronautical tariff of Devi Ahilya Bai Holkar Airport, Indore (**Indore Airport**), owned and operated by the Airports Authority of India (**AAI**). For the purposes of this present submission, the Consultation Paper No. 27/ 2018-19 as mentioned above shall be hereinafter be referred to as "**Consultation Paper**" or "**CP**".

2. The Authority has sought a detailed written submission from its stakeholder on the Consultation Paper by 11.02.2019.

3. Subsequent to the issuance of the Consultation Paper, the Authority held its stakeholder consultation meeting on 25.01.2019 at Indore Airport. FIA and its member airlines were present in the said meeting and has expressed their views on the Consultation Paper.

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 Indore Airport filed its original MYTP submission on 12.09.2018 for the first control period from 01.04.2018 to 31.03.2023.

It is not denied that FIA is not the stakeholder for determination of tariff of Indore Airport. 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 made by AAI/Indore Airport dated 12.09.2018 and any minutes of Airports Users Consultative Committee (AUCC) meetings - Project Investment File (PIF), as applicable. Accordingly, in the absence of the receipt of such submissions made by Indore Airport, FIA is 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 AAI 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, Traffic projections, Tariff Rate Card, allocation of Assets, non-aeronautical revenue etc. merely on the basis of Indore Airport'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 Indore Airport's/AAI's claims under the MYTP without conducting its own independent financial study and prudence check or commissioning experts, for eg. matters relating to evaluation of 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. SHORTFALL (68%) IN ARR HAS BEEN COMPENSATED BY BURDENING THE PASSENGERS WITH LEVY OF UDF. SHORTFALL STEMS FROM ACCEPTANCE OF AAI'S SUBMISSION IN ALL BUILDING BLOCKS LEADING TO HIGHER ARR.

FIA submits that as per Proposal 13 of Consultation Paper, the Authority has accepted the shortfall of INR 223.58 crores i.e. 68% of ARR before imposing User Development Fee (UDF) which has reduced to NIL post introduction of UDF (refer table at the end). FIA submits that the same implies 68% of shortfall is recovered from UDF. However, the Authority has not discussed or suggested any means to recover such a significant shortfall. FIA submits that if the shortfall of 68 % in ARR, is met through an increase in the tariffs, the viability and affordability of airport for airlines and passengers will be adversely affected.

FIA further submits that the one of the key reasons of shortfall is acceptance of AAI's submission in all building blocks like higher RAB, higher FRoR, operating expenditure, and lower non-aero revenue; these all factors have cumulatively led to a higher ARR. FIA has also noted that revenue from cargo operations and air navigation services have not been formed part of tariff proposal, which has led to an increase in shortfall during

control period. FIA has conducted analysis on each of the building blocks as discussed hereinafter.

Accordingly, FIA submits that the Authority should expressly comment about the measures to contain the above-mentioned shortfall by adjusting the current building blocks as it will impact the viability and affordability of the Indore Airport for airlines and passengers.

ARR and Yield as per Authority

Tables #47 & #52 on Page 47 & 53 of CP no. 27/2018-19

INR crores

S. No.	Particulars	FY19	FY20	FY21	FY22	FY23	Total	% of ARR
A	Average Regulatory Asset Base	100.22	140.80	158.72	147.31	137.10		
B	Fair Rate of Return	14%	14%	14%	14%	14%		
C	Return on RAB at %	14.03	19.71	22.22	20.62	19.19	95.78	27%
D	O&M expenses	32.46	34.82	37.18	38.26	40.38	183.10	51%
E	Depreciation	14.49	14.14	12.98	10.70	10.57	62.88	18%
F	Tax	-	-	11.80	19.44	24.80	56.04	16%
G	Subtotal [C+D+E+F]	60.98	68.67	84.18	89.02	94.94	397.80	111%
H	Less: 30% NAR	(6.54)	(7.27)	(7.97)	(8.73)	(9.59)	(40.11)	(11%)
I	Aggregate Revenue Requirement (ARR) [G+H]	54.44	61.40	76.21	80.28	85.34	357.67	100%
J	Discount factor @14%	1.00	0.88	0.77	0.67	0.59		
K	PV of ARR [I*J]	54.44	53.86	58.64	54.19	50.53	271.66	
L	Add: Present value of shortfall of FY17 & FY18	57.60					57.6	
M	Total PV of ARR including true up [K+L]	112	54	59	54	51	329	
N	Aeronautical revenues	18.70	25.40	28.50	31.90	35.90	140.40	
O	PV Aeronautical revenues (excluding UDF)	18.70	22.3	21.9	21.5	21.2	105.7	
P	Total shortfall (before considering UDF)	(93.34)	(31.58)	(36.71)	(32.66)	(29.28)	(223.58)	(68%)
Q	Aeronautical Revenues from UDF	13.5	59.1	68.0	78.2	89.9		
R	PV of revenues from UDF [K*Q]	13.5	51.8	52.3	52.8	53.2	223.58	68%
S	Net total shortfall [P+R]						-	
T	Passengers (domestic + international)	0.3	0.3	0.3	0.4	0.5	1.8	
U	Yield per passenger (INR) (M/T)	430	180	170	137	111	187	
V	Shortfall per passenger (INR)-Before UDF (P/T)	(358)	(105)	(107)	(82)	(64)	(127)	
X	Shortfall per passenger (INR)-After UDF						-	

Note:- Yield per passenger has been computed by dividing the present value of ARR by the total number of passengers

II. TARIFF CARD FOR 1ST CONTROL PERIOD – INCREASE IN CHARGES BORNE BY AIRLINES AS PROPOSED BY INDORE AIRPORT HAS BEEN ACCEPTED BY AUTHORITY. 114% IN HOUSING & PARKING CHARGES, 31% IN DOMESTIC LANDING CHARGES. AUTHORITY SHOULD CONSIDER 16% YOY GROWTH RATE FOR DOMESTIC PASSENGERS AND OTHER COMPONENTS OF ARR TO REEVALUATE INCREASE IN CHARGES

FIA further submits that the tariff rates are proposed to be applicable with effect from 01 March, 2019 (refer table below). FIA submits that there is an increase in charges to be

borne by the airline i.e. 114% increase in Housing & Parking Charges and 31% increase in domestic landing charges.

The tariff card for first control period is as follows

Weight of the Aircraft	Unit	FY19 i.e. applicable from 01.03.2019	% increase in rates mentioned in MYTP and accepted by Authority
Parking charges			
Up to 25 MT	INR / hour / MT	3 Per Hour Per MT	1. 114% increase w.e.f. 01.03.2019 to 31.03.2019 2. 4% increase YOY from FY 20 to FY 23
Above 25 MT up to 50 MT	INR / hour / MT	75+4 per Hour per MT in excess of 25 MT	
Above 50 MT up to 100	INR / hour / MT	175+8 per MT per Hour in excess of 50 MT	
Above 100 MT to 200 MT	INR / hour / MT	575+10 per MT per Hours in excess of 100 MT	
Above 200 MT	INR / hour / MT	1575+11 per MT per Hours in excess of 200 MT	
Housing charges			
Up to 25 MT	INR / hour / MT	6 Per Hour Per MT	1. 114% increase w.e.f. 01.03.2019 to 31.03.2019 2. 4% increase YOY from FY 20 to FY 23
Above 25 MT up to 50 MT	INR / hour / MT	150+8 per MT per Hour in excess of 25 MT	
Above 50 MT up to 100	INR / hour / MT	350+16 per MT per Hour in excess of 50 MT	
Above 100 MT to 200 MT	INR / hour / MT	1150+20 per MT per Hours in excess of 100 MT	
Above 200 MT	INR / hour / MT	3150+22 per MT per Hours in excess of 200 MT	

Weight of the Aircraft	Unit	FY19 i.e. applicable from 01.03.2019	% increase in rates mentioned in MYTP and accepted by Authority
Landing charges			
Up to 25 MT	Per Landing/ MT	160	1. 31% increase w.e.f. 01.03.2019 to 31.03.2019 2. 4% increase YOY from FY 20 to FY 23
Above 25 MT up to 50 MT	Per Landing/ MT	4,000 + 280 in excess of 25 MT	
Above 50 MT up to 100	Per Landing/ MT	11,000 + 320 in excess of 50 MT	
Above 100 MT to 200 MT	Per Landing/ MT	27,000 + 390 in excess of 100 MT	
Above 200 MT	Per Landing/ MT	66,000 + 440 in excess of 200 MT	
Fuel Throughput Charges			
FTC rate	INR / Kiloliter	164.57	1. 15% increase w.e.f. 01.03.2019 2. 5% increase YoY
UDF Charges			
UDF- Domestic Passenger	INR / embarking passenger	394	PSF (FC) of INR 77 is subsumed under UDF

FIA has observed that the Authority has accepted the tariffs proposed by Indore airport. However, the Authority has not mentioned or analyzed the percentage increase in proposed tariff.

FIA submits that as per "Charges for airport services (major / non major airports) effective from 1 April 2017" as issued by AAI, it was noted that existing tariff rates at Indore airport are based on the following slabs: (i) upto 40 MT, (ii) Above 40MT upto 100MT and (iii) Above 100MT. Since, the weight slabs mentioned for all charges as per AAI tariff card are different from the ones mentioned in Proposal 13 (Annual Tariff Proposal) of the Consultation Paper and no bridge has been provided between these slabs, FIA requests Authority to confirm the manner in which the increase of tariffs has been computed for first control period over the existing tariff rates. Refer table below on existing rates as per AAI.

AAI - Charges for Airport Services (Other major airports)

Category	Unit	Existing rates at Indore airport
Landing charges - Domestic		
Up to 10 MT	INR / MT	67.10
10 MT to 20 MT	INR / MT	671 + 117.70 in excess of 10 MT
Over 20 MT	INR / MT	1,848 + 231 in excess of 20 MT
Parking charges-Domestic		
Up to 40 MT	INR / hour / MT	1.80
Above 40 MT up to 100 MT	INR / hour / MT	72 + 3.40 in excess of 40 MT
Above 100 MT	INR / hour / MT	276 + 5.20 in excess of 100 MT
Housing charges-Domestic		
Up to 40 MT	INR / hour / MT	3.50
Above 40 MT up to 100 MT	INR / hour / MT	140 + 6.80 in excess of 40 MT
Above 100 MT	INR / hour / MT	548 + 10.30 in excess of 100 MT
Fuel Throughput Charges		
FTC rate	INR / Kiloliter	Not available
UDF Charges		
UDF- Domestic Passenger	INR / embarking passenger	Not available

FIA submits that on best effort basis, FIA has tried to compute the percentage increase in proposed tariffs vis-à-vis existing tariffs. FIA have computed the increase for certain weight categories of aircrafts due to non-availability of certain slabs in existing rates and proposed rates in above mentioned table. FIA has observed that key charges have increased in the range of 25% to 110%. However, percentage increase as per FIA's analysis is different in each category as compared to percentage increase under MYTP submitted by AAI.

Schedule of of increase in proposed tariff versus existing tariff			
Key charges under different weight categories	Existing rates	Proposed rates	% increase
Landing Charges - Domestic flights			
50 M T	8,778	11,000	25%
100 M T	20,328	27,000	33%
Housing Charges - Domestic flights			
50 M T	208	350	68%
100 M T	548	1,150	110%
Parking charges			
50 M T	106	175	65%
100 M T	276	575	108%
USER DEVELOPMENT FEES (UDF)			
Domestic Passenger	Not applicable	394	
Fuel Throughput Charges			
FTC rate	Not available	164.57	-

FIA further submits that Authority has proposed INR 394 as UDF per domestic embarking passenger. At present, no UDF is charged by Indore airport. **Authority should consider 16% YoY growth rate for domestic passengers while computing UDF.**

FIA further submits that give due consideration needs to be given by the Authority to other issues highlighted by FIA in the present submission, while proposing a new tariff card in order.

III. TRAFFIC PROJECTIONS PROVIDED BY AAI HAS BEEN ACCEPTED BY AUTHORITY EXCEPT IN CASE OF DOMESTIC PASSENGER AND HAS NOT CONDUCTED INDEPENDENT STUDY OF ITS OWN. GROWTH RATE PROJECTIONS FOR DOMESTIC TRAFFIC AND ATM ARE LOWER THAN THE HISTORICAL 5-YEAR CAGR

FIA submits that for traffic projections at Indore Airport, the Authority has considered historical passenger & ATM traffic from FY08 to FY18 from AAI traffic news and its projections for the first control period. FIA has observed that the Authority has done an

upward revision in Indore Airport projections for YoY growth rates for domestic passenger traffic from 10% to 15% from FY19 to FY22 and from 8% to 15% for FY23. Growth rate projections submitted by Indore airport for domestic ATMs have been accepted by the Authority. Further, the growth rate projections submitted by AAI for international passenger traffic and ATMs (domestic + International) have been accepted by the Authority (refer table below).

Domestic Traffic forecast as considered by the Authority

Table #5 on Page 11 of CP No. 27/2018-19

Particulars	FY19	FY20	FY21	FY22	FY23	Total FY19-FY23	Common size	YoY				
								FY19	FY20	FY21	FY22	FY23
Passenger traffic												
Domestic	2,606,347	2,997,299	3,446,894	3,963,929	4,558,518	17,572,987	100%	15%	15%	15%	15%	15%
Passenger traffic	2,606,347	2,997,299	3,446,894	3,963,929	4,558,518	17,572,987	100%	15%	15%	15%	15%	15%
ATM												
Domestic	20,161	21,774	23,516	25,398	27,429	118,278	100%	8%	8%	8%	8%	8%
ATM	20,161	21,774	23,516	25,398	27,429	118,278	100%	8%	8%	8%	8%	8%

FIA submits that the Authority has not conducted its own independent study on traffic projections and broadly relied on the data provided by Indore Airport. Further, as per Proposal 1(b) of the Consultation Paper, the Authority has proposed to true up the passenger traffic and ATM for first control period based on actuals.

Passenger traffic and ATM

FIA submits that as per Table 4 of the Consultation Paper, the historical 5-year and 10-year CAGR for domestic passenger traffic is 16% and 15.2 % respectively.

Increase in passenger growth rates is on similar line with 10-year CAGR rate i.e. 15.2%. However, historical 5 year CAGR for passenger growth rate is 16%. We recommend Authority to conduct an independent study on passenger growth rate as the ATM growth has been projected at c.8% which is higher than both 5-year CAGR and 10-year CAGR of ATM traffic. FIA submits that ATM growth will tantamount to increase in passenger throughput over the control period.

Traffic projections are based on the data received from AAI. Authority has not conducted its own independent study on traffic projections and broadly relied on the data provided

by AAI. Further, as per Proposal 1(b), Authority has proposed to true up the passenger and ATM for first control period based on actuals. ***It is submitted that Authority should conduct an independent study in the future and should not defer detailed evaluation under garb of truing up.***

Hence, **FIA submits that the Authority should consider 5-year CAGR of 16% for YoY growth rate projections for domestic passenger traffic for the first control period.**

Also, the Authority has not considered qualitative factors affecting the traffic growth such as the UDAN scheme, double digit growth in passengers across Indian airports in the last 4 years (as per the DGCA domestic traffic reports).

Without prejudice to the above, FIA submits that the traffic projections are critical in ascertaining the tariffs and CAGR considered by Authority is significantly lower than past CAGR, the Authority must appoint an independent consultant to evaluate traffic forecasts. Also, the expert study would be scientific as apart from past trends of traffic it will also consider various qualitative factors affecting macro environment of the aviation sector like (a) impact of new civil aviation policy (b) commencement of operations from new airlines (b) future changes in economic environment (c) population growth (d) trends of increase in disposable income.

IV. AUTHORITY HAS BROADLY RELIED ON INDORE AIRPORT'S SUBMISSION ON ALLOCATION OF ASSETS BETWEEN AERONAUTICAL AND NON-AERONAUTICAL WITHOUT CONSIDERING: A) TECHNICAL STUDY BY INDEPENDENT AGENCY AND B) NORMATIVE APPROACH PARAMETERS

Average RAB

FIA submits that the Authority has broadly relied on AAI's submission on Allocation of assets between Aeronautical and Non-aeronautical without considering: a) Technical Study by Independent agency and B) Normative approach parameters.

RAB for the 1st control period after Authority's examination

Table #23 on Page 27 of CP no. 27/2018-19

INR crores

Particulars	Pre-control regulatory period		Control Period				
	FY17	FY18	FY19	FY20	FY21	FY22	FY23
Opening RAB	92.13	81.20	82.15	116.39	165.21	152.23	142.38
Capitalizations	1.12	13.26	50.62	62.96	-	0.85	-
Depreciation	(12.05)	(12.31)	(14.49)	(14.14)	(12.98)	(10.70)	(10.57)
Closing RAB	81.20	82.15	118.28	165.21	152.23	142.38	131.81
Average RAB	86.67	81.68	100.2	140.8	158.7	147.3	137.1

Further, FIA submits that the Depreciation for control period has been computed on the basis of order 35/2017-18. However, Authority has taken a conservative approach on useful life for Buildings and Aprons (Refer Issue No. VI for more details.)

Asset allocation

FIA submits that as per para 5.2 of the Consultation Paper, the Authority has allocated the common assets in opening RAB as at 01 April, 2016 into aeronautical and non-aeronautical terminal building based on following ratios:-

Allocation ratio

Reference from Table #6 on Page 12 of CP no. 27/2018-19

Particulars	FY17		FY18		FY19	
	Aero	Non-aero	Aero	Non-aero	Aero	Non-aero
Terminal area ratio	94.38%	5.62%	94.38%	5.62%	94.38%	5.62%
Employee ratio	80:83	3:83	77:81	4:81	NA	NA
Quarter ratio	26:27	1:27	25:26	1:26	NA	NA

FIA submits that in relation to the opening RAB, the Authority has proposed allocation of assets from 01 April 2016 to 31 March 2019 as mentioned in table 10 of CP 27 which is presented in appendix 1 of our report. Similarly, for allocation of assets between 01 April 2019 to 31 March 2023, allocation ratio has been mentioned in table 12 of Consultation Paper.

As per Para 5.10, FIA understands that the Authority has observed that existing non-aeronautical area to total area is on lesser side when compared to other AAI airports of similar nature. However, Indore airport has entered into new agreements with retail and food & beverages vendors w.e.f. from 01/04.2018, which will lead to better utilisation of terminal building for non-aeronautical purposes.

However, considering new retail and F&B stores will take some time to reach full potential, Authority proposes to non-aeronautical area allocation ratio to be revised from existing 5.62% to 9.74% w.e.f. 01/04/2019.

Given the criticality of allocation of the airport assets between aeronautical and non-aeronautical in a shared/hybrid till approach, **FIA submits that the Authority should mention the allocation ratio of additions to RAB. However, such ratio should be supported by an independent study.**

Without prejudice to the above, FIA submits that if an independent study cannot be conducted due to paucity of time, it is submitted that Authority consider aero allocation of 80% as per Proposal 6.(a) of CP 5/2014-15 "In the matter of Normative Approach to Building Blocks in Economic Regulation of Major Airports" for the first control period and true up the allocation ratio based on independent study in the second control period.

V. STATUS OF RAB ADDITIONS HAVE NOT BEEN MENTIONED IN CP. AUCC MINUTES FOR REVIEW HAS ALSO NOT BEEN PROVIDED, WE CANNOT COMMENT ON RAB ADDITIONS. LIKELY DEFERMENT FOR CONSTRUCTION FOR APRONS TO FY21.

Key additions to RAB

**Development of 15 no. parking bays, parallel taxi track and other associated work –
INR 62.95 crores**

FIA submits that as highlighted by AAI in Para 7.2.1 of the Consultation Paper, an extension of existing apron along with ground support equipment and new line taxi track has been proposed with an estimated expenditure of INR 62.95 crores spanning into 167,180 square metres.

Capital expenditure as proposed by the Authority

Table #16 on Page 21 of CP no. 27/2018-19

INR crores

Asset category	FY19	FY20	FY21	FY22	FY23	Total
Runways, Aprons and Taxiways	-	62.95	-	-	-	62.95
Road, Bridges & Culverts	7.51	-	-	-	-	7.51
Building - Residential	5.96	-	-	0.40	-	6.36
Boundary Wall - Operational	4.00	-	-	-	-	4.00
Other Buildings	-	-	-	0.45	-	0.45
Plant & Machinery	19.82	-	-	-	-	19.82
Tools & Equipment	4.49	0.01	-	-	-	4.50
Electrical Installations	4.81	-	-	-	-	4.81
CFT/Fire Fighting Equipment	4.03	-	-	-	-	4.03
Total	50.62	62.96	-	0.85	-	114.43

FIA submits that Consultation Paper was issued on 14 January 2019, wherein current status of the project has not been mentioned. FIA also submits that it has not been provided with any minutes of AUCC consultation. Project Investment File (PIF), as applicable. Also details for basic planning, regulatory approvals, financial closure etc. has not been provided for FIA's review. Hence, in the absence of the receipt of such submissions made by Indore Airport, FIA is unable to appreciate, assess and comprehend the facts and figures (and any comparison thereto) of the major capital expenditure works as discussed under the Consultation Paper. Hence, it is submitted to Authority to provide these details for FIA's review.

Without prejudice to the above, FIA would like to submit that the, Authority in the Consultation Paper No. 26/2018 – 19 of Coimbatore airport has mentioned that construction of new aprons and extension of existing aprons is expected to take 18 months from date of award of work. Taking the example of Coimbatore airport and in

the absence of any timelines of start/completion of the works for new aprons at Indore Airport, FIA would like to submit that it may appear prudent to assume that above mentioned works involving significant capital expenditure at Indore Airport may appear to not be operationalised in FY20. Hence, it is submitted to Authority to defer the capitalisation of new aprons to FY21 and recompute the ARR & depreciation accordingly.

RAB for the 1st control period after Authority's examination

Table #23 on Page 27 of CP no. 27/2018-19

INR crores

Particulars	Pre-control regulatory period		Control Period				
	FY17	FY18	FY19	FY20	FY21	FY22	FY23
Opening RAB	92.13	81.20	82.15	116.39	165.21	152.23	142.38
Capitalizations	1.12	13.26	50.62	62.96	-	0.85	-
Depreciation	(12.05)	(12.31)	(14.49)	(14.14)	(12.98)	(10.70)	(10.57)
Closing RAB	81.20	82.15	118.28	165.21	152.23	142.38	131.81
Average RAB	86.67	81.68	100.2	140.8	158.7	147.3	137.1

Other assets

Authority has not mentioned the detailed breakup of other assets of INR 38.98 crores. Also, the split of these other assets under various categories mentioned in table 16 of Consultation Paper has not been provided. These assets have been considered 100% aeronautical, for which no basis has been given by Authority

FIA submits that the Authority should give a detailed breakup of each category of additions along with year of capitalisation & the same shall be considered for the purpose of calculation of depreciation.

VI. USEFUL LIFE OF 30 YEARS CONSIDERED FOR TERMINAL BUILDING AND APRONS WHICH IS CONSERVATIVE VIEW. CONSIDERING AIRPORT ASSETS HAVE USEFUL LIFE UP TO 99 YEARS IN INTERNATIONAL AIRPORTS, 60 YEARS USEFUL LIFE FOR TERMINAL

BUILDINGS AND APRONS OUGHT TO BE CONSIDERED BY AUTHORITY

FIA submits that, on an overall basis, average useful life of assets including opening RAB ranging between 7-14 years during control period, is lower considering the international airports & new additions. FIA's review of RAB additions & its allocation indicated that shorter useful lives have been broadly considered by Authority.

Detailed component level breakup has not been provided by Authority & accordingly same has been considered for the purpose of depreciation. Broad heads of capitalization has been provided. Hence, we understand that depreciation has also been computed as per depreciation order on basis of useful life of these heads rather than useful life of these head component. This might lead to accelerated depreciation. For instance, solar power plant has been classified under electrical installation or plant & machinery rather than component level.

Reference from table #23 on Page 27 of CP no. 27/2018-19

INR crores

Particulars	Note	Pre-control		Control Period				
		FY17	FY18	FY19	FY20	FY21	FY22	FY23
Average RAB	A	86.67	81.68	100.22	140.80	158.72	147.30	137.09
Depreciation	B	12.05	12.31	14.49	14.14	12.98	10.7	10.57
Average depreciation C=B/A		14%	15%	14%	10%	8%	7%	8%
Average useful life	D=1/C	7	7	7	10	12	14	13

FIA's submit that as per Para 8.14 of the Consultation Paper, depreciation from FY 18 onwards has been computed as per rates prescribed under AERA Order No. 35/ 2017-18 "In the matter of Determination of Useful life of Airport Assets" dated 12 January 2018 (Order 35). Further, half yearly rates of depreciation have been considered for additions to RAB in the first year of capitalization. For terminal building and other buildings, while Order 35 states useful life as 30 or 60, the useful life consider by AAI for Indore airport and accepted by Authority has been 30 years in the Consultation Paper (refer table below).

For reference FIA would like to highlight, life of buildings as 30 years, considered by Authority, is not in accordance with Part C of Schedule II of Companies Act, 2013, which provides useful life of buildings having Reinforced Concrete Cement (RCC) frame

structure to be 60 years. FIA submits that there is no mention with respect to the structure of buildings, although it is highly unlikely that terminal buildings are not built with RCC technology.

Hence, FIA submits that authority has taken adopted conservative view with respect to useful life of terminal and other buildings. **FIA submits that accordingly, in the interest of consumers, Authority could consider useful life of buildings as 60 years instead of taking a conservative view.**

FIA states that as submitted under RAB section, to defer the capitalization of new apron of INR 62.95 crores to FY21. It is submitted to Authority to not to consider aprons for the purpose of capitalization in FY20 and accordingly, revise depreciation calculation for FY20 onwards.

Depreciation on correct allocation ratio

Allocation of assets: - FIA submits that the Authority has not mentioned allocation of RAB additions for first control period. As submitted under RAB allocation section, "to consider the asset allocation ratio of 80%: 20% in the 1st control period", **FIA submits that Authority should recompute the depreciation basis the allocation of RAB assets in the ratio of 80:20 for this control period.**

Depreciation rates proposed by the Authority

Table #20 on Page 25 of CP no. 27/2018-19

Asset category	Up to FY16	Between FY16 & FY18	Beyond FY18	Life (in years)	Useful life as per order 35/2017-18
Freehold Land	0%	0.00%	0.00%	-	-
Runways, Aprons and Taxiways	13%	3.33%	3.33%	30	30
Road, Bridges & Culverts	13%	3.33%	10.00%	10	10
Building - Terminal	8%	3.33%	3.33%	30	30 or 60
Building - Residential	5%	3.33%	3.33%	30	30 or 60
Boundary Wall - Operational	8%	3.33%	10.00%	10	10
Boundary Wall - Residential	5%	3.33%	10.00%	10	10
Other Buildings	8%	3.33%	3.33%	30	30 or 60
Computer - End user	20%	16.67%	33.33%	3	3
Computer - Servers and networks	20%	16.67%	16.67%	6	6
Intangible Assets - Software	20%	20.00%	20.00%	5	5
Plant & Machinery	11%	6.67%	6.67%	15	15
Tools & Equipment	20%	6.67%	6.67%	15	15
Office Furniture	20%	10.00%	14.29%	7	7
Furniture & Fixtures: Other Than Trolley	20%	10.00%	14.29%	7	7
Furniture & Fixtures: Trolley	20%	10.00%	33.33%	3	3
Vehicles	14%	12.50%	12.50%	8	8
Vehicles - car and jeep	14%	12.50%	12.50%	8	8
Electrical Installations	11%	10.00%	10.00%	10	10
Other Office Equipment	18%	20.00%	20.00%	5	5
X Ray Baggage System	11%	6.67%	6.67%	15	15
CFT/Fire Fighting Equipment	13%	6.67%	6.67%	15	15

Further, FIA's review of useful life of assets at various international airports like London Heathrow, Sydney airport and Amsterdam airport indicated that terminal building have useful life of as long as 60 years and aprons have it as long as 99 years. Also, the useful life of terminal building for Kannur & Cochin airports have been considered 60 years by Authority. However as per the Consultation Paper, average life of airport assets additions between FY19 to FY23 is ranging between 7-14 years during the control period which primarily comprises of Terminal & other buildings and Aprons.

FIA reiterates that the Authority has taken adopted conservative view with respect to useful life of terminal and other buildings. Accordingly, FIA **submits that accordingly, in the interest of consumers, Authority could consider useful life of buildings and aprons as 60 years instead of taking a conservative view.**

Depreciation on solar power plant

We noted that solar power plant of INR 4.03 crores has been considered as electrical installation or plant & machinery by virtue of which its useful life has been considered as 10 or 15 years. However, as per CERC (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2017, useful life of solar power plants is 25 years whereas the Authority which is lower than estimate of useful life by Authority. Hence, ***it is submitted to revise the depreciation on solar plant considering the life of solar power plant as 25 years instead of 10 years.***

It is also submitted that Authority should provide detailed calculations for depreciation charged on opening RAB & additions made therein, rather than just giving a consolidated number. Absence of detailed calculations for depreciation, FIA cannot comment on the depreciation considered for tariff determination.

VII.COMPANIES ACT 2013 AND AERA ORDER 35/2017-18 HAS NOT BEEN CONSIDERED WHILE CALCULATING DEPRECIATION ON OPENING RAB RESULTING IN ACCELERATED DEPRECIATION LEADING TO HIGHER ARR. FIA CANNOT COMMENT ON DEPRECIATION CALCULATION IN ABSENCE OF DETAILED COMPONENT LEVEL BREAKUP OF OPENING RAB AND ADDITIONS.

FIA submits that in terms of per Para 8.2 of the Consultation Paper, FIA understands that prior to FY17, the depreciation computed is as per AAI depreciation rates and during FY17& FY18 depreciation has been computed as per Companies Act, 2013. However, depreciation from FY19 has been computed as per rates prescribed under AERA order No. 35/2017-18.

FIA further submits that as per note 7 of schedule II of Companies Act, 2013, in case of first time adoption of Companies Act, 2013 , depreciation on opening RAB is calculated as follows:-

"From the date this Schedule comes into effect, the carrying amount of the asset as on that date—

(a) shall be depreciated over the remaining useful life of the asset as per this Schedule;"

As per Decision 1d of Authority's order no. 35/2017-18, *"to propose the carrying amount of the asset as on the date of effect shall be depreciated over the remaining useful life of asset."*

Hence, considering the provisions of schedule II of Companies Act, 2013 and order 35/2017-18, opening RAB as on 01.04.2016 will be depreciated over remaining useful life (as per Companies Act, 2013) till 31.03.2018. Accordingly, opening RAB as on 01.04.2018 will be depreciated over remaining useful life (as per order 35/2017-18).

However, in absence of detailed component level breakup of depreciation, FIA cannot comment whether depreciation calculated in table 21 of the Consultation Paper has been in compliance with above mentioned provision.

Hence, FIA submits that Authority should clarify whether the depreciation order no. 35/2017-18 & schedule II of Companies Act, 2013 (with respect to opening RAB as on 01.04.2016) has been followed or not. Further, FIA would request Authority to review the depreciation calculation in detail and explain the basis of computation of depreciation at the time of passing of order. FIA submits to Authority to adjust the accelerated depreciation before issuing the final Order for Indore Airport.

VIII. WITHOUT CONSIDERING PAST TRENDS, PRODUCTIVITY IMPROVEMENTS AND COST DRIVERS, THE AUTHORITY HAS ACCEPTED THE OPERATING EXPENDITURE SUBMITTED BY AAI AS IS, WHICH WAS FORECASTED ON VERY BROAD BASIS BY INDORE AIRPORT. ALLOCATION RATIO AND BASIS OF ALLOCATION OF GROSS OPERATING EXPENDITURE HAS NOT BEEN MENTIONED BY THE AUTHORITY

Reasonableness of operating expenditure

FIA submits that the Operating expenditure is one of the major component for determining ARR (**51% of ARR**), hence, the Authority should have evaluated these expenses in detail rather than accepting projections and basis provided by AAI on an "as is". Authority should have scrutinized the expenses in detail instead of leaving it for true up in the next control period.

**FIA's submission towards the Authority's Consultation Paper No. 27/2018-19 titled
"In the matter of determination of Aeronautical Tariffs in respect of Devi Ahilya Bai Holkar Airport (IDR), Indore for
the First Control Period (01.04.2018 - 31.03.2023)"**

Operation and maintenance (O&M) expenses as revised by the Authority

Reference from Table #39 on Page 41 of CP no. 27/2018-19

INR crores

Particulars	Pre control regulatory period		Control period					Total	Opex per passenger (INR)	% of total	Basis of projection for first control period	YoY					
	FY17	FY18	FY19	FY20	FY21	FY22	FY23					FY18	FY19	FY20	FY21	FY22	FY23
Payroll expenses - non CHQ/RHQ	9.67	10.62	12.78	13.65	14.61	15.63	16.72	73.39	41.76	40%	Overall growth of 19% in FY19 & 7% increase YoY	10%	20%	7%	7%	7%	7%
Payroll expenses - CHQ/RHQ	2.01	2.12	2.54	2.72	2.91	3.11	3.33	14.61	8.31	8%		5%	20%	7%	7%	7%	7%
Repairs and maintenance	5.31	7.50	8.19	8.78	9.43	8.67	8.80	43.87	24.96	24%	Expense incurred is spread over 5 years	41%	9%	7%	7%	-8%	1%
Administration and General expenses - non CHQ/RHQ	1.81	2.81	2.97	3.49	3.84	4.22	4.65	19.17	10.91	10%	Actual growth trend of expenses for past few years is considered,	55%	6%	18%	10%	10%	10%
Administration and General expenses - CHQ/RHQ	2.10	2.21	2.32	2.44	2.56	2.69	2.82	12.83	7.30	7%	contractual agreements with vendors on sample basis were considered for escalation dynamics	5%	5%	5%	5%	5%	5%
Utilities and outsourcing expenses	2.81	3.35	3.41	3.48	3.55	3.63	3.73	17.80	10.13	10%		19%	2%	2%	2%	2%	3%
Other outflows - Collection Charges on UDF	0.13	0.23	0.25	0.27	0.29	0.31	0.33	1.45	0.83	1%	8% increase YoY	77%	9%	8%	7%	7%	6%
Total	23.86	28.82	32.46	34.83	37.19	38.26	40.38	183.12	104.21	100%		21%	13%	8%	7%	3%	6%

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 maybe considered appropriate.

FIA submits that considering the approach of the Authority for reviewing the operating expenditure is not in line with provision of AERA Guidelines, Authority should have taken independent analysis.

FIA submits that Indore Airport has already completed a significant period of operations, hence benchmarking the costs would not be difficult for the Authority. Therefore, rather than truing up, price cap should be mandated by the Authority for each of the operating expenditures depending on the evaluation of past trends, cost drivers, productivity movements, future expansions otherwise the Indore airport would not make palpable efforts to contain the costs. This would lead to additional burden on the passengers for the next control period.

Bifurcation of expenditure into aeronautical & non-aeronautical

As per Proposal 9. of the Consultation Paper, the Authority has proposed the allocation of aeronautical and non-aeronautical expenses in the following ratios:-

Allocation of O&M expenses as per the Authority

Reference from Table #36 on Page 39 of CP no. 27/2018-19

Particulars	Aeronautical	Non-aeronautical	Basis provided
Payroll expenses - non CHQ/RHQ	95%	5%	Employee ratio
Payroll expenses - CHQ/RHQ	95%	5%	Not provided
Administration and General expenses - non CHQ/RHQ	96%	4%	Terminal area ratio & employee ratio
Administration and General expenses - CHQ/RHQ	95%	5%	Not provided
Repairs and maintenance	96%	4%	Not provided
Utilities and outsourcing expenses	99%	1%	Actual consumption by stalls
Other outflows - Collection Charges on UDF	100%	0%	-

As per Para 11.13, certain expenditure have been considered tentative, no data is available by virtue of which Authority ought to have done proper analysis. Authority ought to have sought the information for the purpose of computing the ratios. Hence, the present ratios does not have any basis and is tentative, which depicts a very lenient approach of the Authority.

FIA submits that allocation of the operating expenditure between Aeronautical or Non-Aeronautical categories is critical under Shared Till approach. However, till the time study is conducted, FIA would like to highlight aero allocation ratio proposed as per CP 5/2014-15 of Normative approach of 80% should be used, hence it is submitted that aero expenditure should be considered at 80% for the first control period.

IX. CONSERVATIVE VIEW OF AUTHORITY HAS BEEN TAKEN FOR PROJECTING NON-AERONAUTICAL REVENUE GROWTH RATE. NON-AERO REVENUE PER PASSENGER IS ON A CONSTANT DECLINE OVER THE CONTROL PERIOD.

**FIA's submission towards the Authority's Consultation Paper No. 27/2018-19 titled
"In the matter of determination of Aeronautical Tariffs in respect of Devi Ahilya Bai Holkar Airport (IDR), Indore for
the First Control Period (01.04.2018 - 31.03.2023)"**

FIA submits that as per proposal 8(a), the Authority has proposed to consider Non-Aeronautical Revenues as per table below:

Non-aeronautical revenues proposed by the Authority

Table #29 on Page 34 of CP no. 27/2018-19

INR crores

Particulars	Pre control regulatory period		Control period									YoY					
	FY17	FY18	FY19	FY20	FY21	FY22	FY23	Total FY19-FY23	Revenue per passenger (INR)	% total	Basis of Authority's projections for 1st control period	FY18	FY19	FY20	FY21	FY22	FY23
1. Trading concessions																	
Restaurant/ snack bars	0.34	0.38	6.20	6.82	7.50	8.25	9.08	37.85	21.54	29%	10% increase YoY	12%	1532%	10%	10%	10%	10%
T.R. stall	0.39	0.60	3.59	4.30	3.94	4.34	4.77	20.94	11.92	16%	10% increase YoY	54%	498%	20%	(8%)	10%	10%
Hoarding & display	3.38	5.81	6.40	7.04	7.74	8.51	9.36	39.05	22.22	30%	10% increase YoY	72%	10%	10%	10%	10%	10%
2. Rent and services																	
Land leases	1.05	0.75	0.75	0.75	0.75	0.75	0.81	3.81	2.17	3%	Authority examined	(29%)	0%	0%	0%	0%	8%
Building (residential)	0.01	0.02	0.02	0.02	0.02	0.02	0.02	0.10	0.06	0%	the commercial	100%	0%	0%	0%	0%	0%
Building (non-residential)	1.27	1.21	1.33	1.47	1.61	1.77	1.95	8.13	4.63	6%	agreements that AAI	(5%)	10%	11%	10%	10%	10%
3. Miscellaneous																	
Car rentals	0.58	0.55	0.61	0.67	0.74	0.81	0.89	3.72	2.11	3%	Authority examined	(5%)	11%	9%	11%	9%	10%
Car parking	0.76	1.98	2.18	2.40	2.63	2.90	3.19	13.30	7.57	10%	found the projections	161%	10%	10%	10%	10%	10%
Admission tickets	0.33	0.23	0.26	0.28	0.31	0.34	0.38	1.56	0.89	1%	to be in line with	(29%)	9%	8%	13%	10%	12%
Other income	0.39	0.45	0.47	0.50	0.52	0.55	0.57	2.61	1.48	2%	these agreements.	16%	2%	8%	4%	6%	4%
Total	8.50	11.99	21.80	24.24	26.56	29.11	31.98	131.06	74.58	100%		41%	82%	11%	10%	10%	10%
30% of non aero revenue	2.55	3.60	6.54	7.27	7.97	8.73	9.59	39.32									
Passengers [in crores]	0.2	0.2	0.3	0.3	0.3	0.4	0.5	1.8				27%	15%	15%	15%	15%	15%
Non-aero revenue per passenger (INR)	48	58	92	89	85	81	77	82				22%	58%	(3%)	(5%)	(5%)	(4%)

Conservative approach while projecting growth in non-aeronautical revenue

FIA further submits that increase in non-aeronautical revenue is function of increase in terminal building area, passenger traffic growth, inflationary increase and real increase in contract rates. Despite all these factors increasing during the control period, on examination of the non-aeronautical revenue projected for the first control period by Authority, it was noted that a conservative approach has been taken by the Authority.

Further, as per agreement entered by AAI with various vendors, eight non-aeronautical revenue streams (namely restaurant/snack bar, T.R. stall, hoarding & display, car rentals, car parking, building-nonresidential, duty free shops and admission tickets) which contributes 95% of total non-aeronautical revenue for first control period, year on year 10% increase has been proposed by Authority between FY20 to FY23.

As per Para 10.5, 10.6 & 10.7, we understand that Authority has verified the agreement in respect of escalation terms for key vendors.

FIA submits that as per Table 2 of Consultation Paper, Indore Airport had registered domestic passenger growth over 5 year CAGR is 16%. However, as per table 5 of the Consultation Paper, on a conservative basis, passenger growth over the control period has been projected to be 15% p.a. As per Para 10.5 & 10.6, Authority noted that new contracts entered with retail outlets wherein concession fee is based on certain percentage of net sales or INR 30 lakhs per month (minimum guaranteed amount) whichever is higher. On comparing the passenger growth rate with the escalation clauses in agreement, we analysed that escalation clauses as per agreements is c.10% during FY19 to FY23, which is lower than year on year projected passenger growth over the control period. Therefore, non-aeronautical revenue per passenger was analyzed for each year of the first control period and a decreasing trend was noted in the same, which clearly indicated that the Authority has taken lower growth rate projections/conservative view for non-aero revenue.

As per Para 10.4, FIA understands that revenue from hoarding and display for FY18 were understated by 5.26 crores. Authority has revised figures for FY18 to INR 5.81 crores from INR 0.55 crores and growth rate is applied for projecting income in first control period. However, Authority did not mention the basis of taking 10% as growth rate for the first control period.

FIA further submits that 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, FIA's review of the Consultation Paper indicated that for the purpose of determining Non-Aeronautical Revenue, Authority, rather than evaluating non-aeronautical revenue in detail as per AERA Guidelines to consider the impact of inflationary increase and real increase while projecting these Non-Aero revenue has relied on adhoc growth rate and basis provided by Indore Airport.

FIA submits that Authority should re-consider growth rates for non-aero revenues so as to keep them in line with the growth in passengers. Further, Authority has not commented on the real increase, inflationary increase and passenger traffic based increase for the growth rates proposed for the first control period. Since, each of them affect the non-aeronautical revenues, FIA submits that the Authority should re-evaluate the growth rates for non-aeronautical revenue basis a consultant study. However, for the purpose of the order, FIA submits that the Authority should consider 16 % YoY growth (being 5-year passenger growth CAGR) in non-aero revenue during the control period except in case of long term contracts where YoY escalation is agreed.

FIA submits that Authority should direct AAI to enter into contracts where an escalation clause is linked with passenger growth and propose true up in second control period based on actuals.

FIA submits to Authority, if the capitalisation for new terminal building is done in FY22, then the Authority should reconsider the growth rates projected in FY 22 & FY 23 as new contracts will be entered with various vendors which will lead to higher non-aeronautical income.

Issue 2:-Decline in revenue from T.R. Stall in FY21

As per Para 10.8, FIA understands that income from retail and other stalls will increase by 10% in FY21. However, in FY21, income from T.R. Stall has declined by 8%. No reason has been explained for such decline. **Hence, it is submitted to Authority to rectify the non-aeronautical income for FY21.**

X. CARRY FORWARD OF LOSSES PRIOR TO FY17 SHOULD BE ALLOWED TO SET OFF FROM FUTURE PROFITS.

FIA submits that as per Proposal 10 of the Consultation Paper, Authority has considered carry forward of losses for prior 2 years i.e. FY17 & FY18 only and setoff the carried forward losses FY20 (INR 27.1 crores).

FIA submits that as per AERA guidelines Para 5.5.1 which states *"Taxation represents*

payments by the Airport Operator in respect of corporate tax on income from assets/ amenities/ facilities/ services taken into consideration for determination of Aggregate Revenue Requirement." The guidelines are clear that tax payments under Income Tax Act, 1961 will be considered for calculation of target revenue.

Para 5.5.2 of AERA guidelines states "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". However as per proviso to sub-section(ii) Section 72 of Income Tax Act,1961 , "if the loss cannot be wholly so 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 assessee, be carried forward to the following assessment year and so on for seven assessment years immediately succeeding". Hence, business losses can be carried forward for 8 years and can be set off with profits in future years. Hence, 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 FY17.

It is submitted that losses for periods prior to FY17 (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. Also, actual payment of income taxes should be considered for true up purposes.

XI. REVENUES FROM AIR NAVIGATION SYSTEM (ANS) AND CARGO OPERATIONS HAVE NOT BEEN CONSIDERED IN AERONAUTICAL REVENUES, THUS INCREASING THE SHORTFALL

FIA submits that as per para 3.2 & 3.3 of Consultation paper 27/2018-19, we understand that tariff proposal submitted by AAI did not consider revenues, expenses & assets related to air navigation services provided by AAI and cargo services provided by AAI Cargo Logistics and Allied Services (AAICLAS), a wholly owned subsidiary of AAI. Also, Authority has accepted the incomplete proposal of AAI and proposed a tariff card without considering the revenue from the above two services.

FIA submits that as per section 2 of AERA Act, 2008, under sub-section (a), "aeronautical

services means any services provided-

(i) For navigation, surveillance and supportive communication thereto for air traffic management

(iv) for ground handling services relating to aircraft, passengers and cargo at an airport

(v) for the cargo facility at an airport"

Considering the above provisions, revenue from both services (ANS & cargo services) should form part of aeronautical revenues and accordingly Authority should take into account of the corresponding revenue and revise tariff card accordingly.

FIA submits that as highlighted in Para 57 of DIAL TDSAT judgment, "...Even if DIAL engages in providing an Aeronautical Service through its servants or agents, in essence the service must be deemed to be one provided by DIAL". Hence applying the same principle in Indore airport, cargo operations which have been transferred to AAI Cargo Logistics and Allied Services (AAICLAS), services will deemed to be provided by AAI. Therefore, revenue from cargo services should be considered for determining tariff for first control period.

FIA submits that Authority should consider the revenue from air navigation services and cargo services while determining tariff for first control period & propose a new tariff card accordingly.

XII. ADEQUATE INFORMATION NOT PROVIDED

FIA submits that following are certain instances wherein no adequate information has been provided by the Authority:

(i) **Tariff rates:** The Authority has not mentioned CUTE charges in CP 27 for stakeholder review despite each of them forming a part of Aeronautical Revenues.

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

FIA submits that as per para 2.1 of the Consultation Paper, it is stated that The Authority, vide its Order No. 13/2010-11 dated 12/01/2011 ("Airport Order") and Direction No. 5/2010-11 dated 28/02/2011 ("Airport Guidelines"), had issued guidelines to determine tariffs at major airports based on Single Till mechanism. Subsequently, the Authority has amended guidelines vide its Order No. 14, 2016-17 dated 12/01/2017 to determine the future tariffs using Hybrid Till. FIA submits that as per para 2.2 of the Consultation Paper, it is stated that the Authority shall determine tariffs for Indore Airport 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. FIA submits 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 Indore Airport 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 an 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 AAI 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, FIA submits 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 AAI for Indore Airport 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. AAI'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.