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June 17, 2022

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

Kind Attention – Shri. Balwinder Singh Bhullar

Subject: **Response to Consultation Paper No. 03/2022-23 dated May 24, 2022 on determination of Cargo Handling Charges for M/s Mumbai Cargo Service Center Airport Pvt Ltd. at Chhatrapati Shivaji Maharaj Intl. Airport, Mumbai ('CSMIA'), for the third control period (FY 2021-22 to FY 2025-26)**

Dear Sir,

We write in response to the Consultation Paper No. 03/2022-23 issued on May 24, 2022 by the Airports Economic Regulatory Authority of India ("AERA") in the matter of determination of Cargo Handling Charges for M/s Mumbai Cargo Service Center Airport Pvt Ltd. at Chhatrapati Shivaji Maharaj Intl. Airport Mumbai ('CSMIA') for the Third Control Period (FY 2021-22 to FY 2025-26) ("Consultation Paper" or "CP").

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

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

While the airline operations showed an upward trend from December 2020, however the brutal second wave of COVID-19 in March 2021 and subsequent emerging variants (December, 2021 onwards), of COVID-19, have again impacted the operations to a certain extent and resultantly prolonged the process of financial recovery.

As per industry estimates issued by IATA and CAPA, it will take almost two (2) - three (3) years for airline operations to reach pre COVID-19 level, in terms of number of flights and passengers. In the current situation, airlines in India are staring at a loss of approximately USD 8.0 billion for the FY 2020-21 and 2021-22 as per CAPA. With limited financial support from the Government, Airlines are constrained to implement severe cost control measures to sustain their operations.

passenger revenue, airlines continue to incur high operational cost, including on account of high airport charges and taxes.

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

The Consultation Paper proposes a staggered increase/hike in the tariff from 2022-23 onwards. In this regard, we humbly request AERA to not implement any such increase in the Third Control Period and defer any increase in the same to the subsequent control period, given the scenario described above.

Without prejudice to the above, and as desired by AERA, please find below our recommendations/ comments on the Consultation Paper:

1. **Review of Tendering Process**
   (1.2 and 1.3 and 4.3.2 of the CP)

   AERA is requested to ensure that MIAL does not take the decision to award concession agreements solely on the revenue share being offered. Basing decisions solely on highest revenue share being offered breeds inefficiencies and tends to disproportionately increase the cost. It is general perception service providers has no incentive to reduce its expenses as any such increase will be passed on to the airlines through tariff determination mechanism process and indirectly airlines will be forced to bear these additional costs. There needs to be a mechanism for incentivizing the parties for increasing efficiencies and cost savings and not for increasing the royalty for the airport operator.

2. **Deferment of Capital Expenditure - Regulatory Asset Base**
   Stoppage of non-safety related capital expenditure (Refer 4.1, 4.3.2, 4.3.12 and Table 5 and 6 of CP)

   As projected by IATA and CAPA it will take around two (2) - three (3) years for the flight operations to reach to its pre COVID-19 peak levels. In this situation, in order to support the airlines to continue and sustain its operations, all non-essential CAPEX proposed by MCSC should be put on hold/deferred to the Fourth Control Period, unless deemed critical from a safety or security compliance perspective

   Further, in case MCSC wants to make capital expenditure, then it should be at no additional expense to the airlines until the project is completed and put to use. Similarly, if any proposed Capex projects can be deferred from the Third Control Period to the Fourth Control Period, same should be considered by AERA.

   In addition, we recommend that an adjustment of 1% or higher, as deemed fit, is made by AERA for capital expenditure projects of the Third Control Period that are not completed/capitalised as per the approved capitalisation schedule other than those affected solely by the adverse impact of COVID-19. Such adjustments can be made by AERA during the tariff determination for the Fourth Control Period.

3. **Independent Expert Study**
   Cargo Projections (Refer Table 3 and 3.1.4 of CP)

While we appreciate that AERA has referred to the data on cargo volumes published by MCSC, we request AERA to conduct an independent expert study for Cargo Volumetric projections, in accordance with the Airport Economic Regulatory Authority of India Act, 2008 (**AERA Act**).

4. **Abolishment of Royalty Charges/ Concession Fee**
   Operating & Maintenance Expenditure (Refer 4.3.2 and 5.6.13 of CP)

   Any attempt to award the contracts by the airport operator on highest revenue share basis should be discouraged as it breeds inefficiencies and tends to disproportionately increase the cost.

   It is general perception that service providers have no incentive to reduce their expenses, as any such increase will mostly be passed on to the airlines through tariff determination mechanism process, and indirectly the airlines will be forced to bear these additional costs. There needs to be a mechanism for incentivizing the parties for increasing efficiencies and cost savings and not for increasing the royalty for the airport operator.

   As you are aware, royalty is in the nature of market access fee, charged (by any name or description) by the airport operator under various headings without any underlying services. These charges are mostly passed on to the airlines by the airport operator or other services providers.

   It may be pertinent to note that market access fee by any name or description is not practiced in most of the global economies, including European Union, Australia etc. Sometimes it is argued by the airport operators that 'Royalty' on 'Aero Revenues' helps in subsidizing the aero charges for the airlines, however royalty in 'Non-Aero Revenues' hits the airlines directly without any benefit.

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

5. **Operational Expenditure – Drastic Cost Cutting**

   It may be noted that across various industries, instead of cost escalations, all the costs have been renegotiated downwards substantially. We are unaware as to whether MCSC has taken cost cutting measures including re-negotiations of all the cost items on its profit and loss account. It may be noted that cost incurred by MCSC impacts the airlines, as such cost is passed through or borne mostly by the airlines.

   In order to ensure that there is no adverse impact/increase in the tariff, we request AERA should:

   (a) Put on hold any increase in operational expenditure by MCSC (Refer 5.6 and Table 15 of CP)
   The total Opex proposed by AERA for MCSC from Second Control Period to Third Control period is projected to rise by 148%, which seems to be unreasonable, considering the above.

   (b) Advise MCSC to review its spending on operational expenditure and re-negotiate all the operational expenditure costs in a significant manner and address any increase in fees sought by MCSC. MCSC may be advised to reduce its cost by at least 35% and no escalation should be permitted; and

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

(d) Further, we submit that:

(i) Payroll Costs (Refer Table 13):

Although the activity level has gone down drastically, rather than significant reduction in the cost, the employee expenses are proposed to increase around 15% Y-O-Y over the five (5) year control period.

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

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

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

(ii) Administrative & General Expenditure, Concession Fees and Repair & Maintenance Cost (Refer 5.6.9, 5.6.10, 5.6.11, 5.6.12 and 5.6.13 and Table 15)

The Administrative & General Expenditure, Concession Fees and Repair & Maintenance Cost appear to be too high. AERA may advise MCSC to rationalize/re-negotiate all the cost/expenditure items or heads as deemed fit. Further, no escalations should be permitted under these items or heads.

It is unclear as to whether MCSC has taken cost cutting measures including re-negotiations of all the cost items on its profit and loss account. In view of the above, we submit that AERA may kindly freeze any increase in operational expenditure after the Tariff Year 1, and there should not be any increase in any expense or manpower.

6. Aggregate Revenue Requirement

Return on Revenue (Refer 6.2.3 of CP)

Presently, AERA has considered a 14% return on RAB. However, while such fixed/assured return favours the service provider, it creates an imbalance against the airlines, which are already suffering from huge losses and bear the adverse financial impact through higher tariffs.

Due to such fixed/assured returns, service providers like MCSC have no incentive to look for productivity improvement or ways of increasing efficiencies, take steps to reduce costs as they are fully covered for all costs plus their hefty returns. Such a scenario breeds inefficiencies and higher costs, which are ultimately borne mostly by airlines. In the present scenario any assured return on investment to any services providers like MCSC, in excess of three (3) % (including those on past orders), i.e. being at par with bank fixed deposits (i.e., return on investment after the income tax), will be onerous for the airlines.

In view of the above, AERA is requested to immediately review the proposed return on RAB to the service providers like MCSC and revise all the Tariff Orders (including past orders) by capping the returns to a maximum of three (3) %.

We hope that your good self will positively consider the above recommendations/ comments as it will help in achieving the affordability and sustainability of the aviation sector including airlines, which is also outlined as a key objective in the National Civil Aviation Policy, 2016.

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

Thanking you in advance,

Yours Truly,

For SpiceJet Limited

Suryavir Singh Bisht
Sr. General Manager – Regulatory Affairs

Copy to:

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