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Federation of Indian Airlines

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15 March 2011

Shri. Sandeep Prakash
Secretary,
AERA Building, Administrative Complex,
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New Delhi - 110003.

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DGM(R)
AGM (ABS)
16/3/11

Subject: Comments & submissions of the Federation of Indian Airlines (FIA) tendered in response to the Consultation Paper No. 14/2010-11 titled "Economic Regulation of Services Provided by Airport Operators (Interim Arrangement for the Control Period Commencing, 1st April 2011)

Dear Sir,

The FIA sincerely appreciates AERA for bringing out Consultation Paper No.14 on the above subject matter and is hereby placing on record the following submission which has been arrived solely from discussions, deliberations and past experiences of the member airlines for the kind consideration by the authority.

Enclosed is the FIA submission for your kind consideration.

Thanking you,

Yours Sincerely,

Ujjwal Dey

Ujjwal Dey
Sr. Executive Officer

1. By the present submission, the members of FIA place on record its submissions on the Consultation Paper No.14/2010-11 issued by the Authority which relates to "Economic Regulation of Services Provided by Airport Operators - interim arrangement for the Control Period commencing 01.04.2011".
2. The foundational elements of the Regulatory Philosophy and Approach in Economic Regulation of Airport Operators are recorded by the Authority in its Order No. 13/2010-11 dated 12.01.2011, which is a laudable effort. FIA looks forward to the effective implementation of the principles set out therein which are summarized herein below:-
 - (a) The Authority has decided to adopt a single till regulatory regime for major airports in India, noting the legislative mandate in terms of Section 13(1)(a)(v) of the AERA Act. In this context, the Authority has adopted Price Cap or incentive based regulation to secure viable Operations of Airports by way of Fair Rate of Return on "net investment" in the Airports, incentivizing efficient airport investment and operations. This regulatory regime has been supported by the Airlines, Airports Authority of India and the Planning Commission.
 - (b) The Authority will determine the Fair Rate of Return for Airport Operators while protecting reasonable interest of users.
 - (c) The Regulatory Asset Base (RAB) will be the fixed assets of the Airport Operator (including assets with fixed locations inside terminal buildings) subject to certain exclusions like (i) working capital, (ii) Work in Progress (WIP) assets until they have been commissioned and are put to use, and (iii) investment made from pre-funding levy (DF).
 - (d) Capital Investment plans should be firmed up after appropriate user consultations by the Airport Operator as per a specified Consultation Protocol.
 - (e) Depreciation shall be provided as per straight line method of depreciation.
 - (f) Operation and Maintenance Expenditure shall be approved by the Authority.
 - (g) Form of price control and tariff structure shall be determined on the basis of a Multi Year Tariff Proposal made by the Airport Operator for 5 years, involving annual compliance process, tariff proposals, user consultation and compliance of relevant regulations/guidelines. Initial determination of a yield per passenger under the tariff process shall be done and subsequently detailed annual tariff proposals from Airports Operators (pertaining to the approved yield per passenger) will be determined.
3. Thereafter on 28.02.2011, Direction No 5/2010-11 was issued by the Authority wherein AERA (Terms and Conditions for Determination of Tariff for Airport Operators) Guidelines, 2011 ("Guidelines") were formulated.
4. It is submitted that the Authority in the present consultation Paper No. 14/2010-11 has:-

- (a) Stated that it would not be possible to determine the tariff in respect of any of the major airports before 01.04.2011, while setting out some elements of the overall schedule for determination of the multi-year tariff order and then the annual tariff order.
- (b) In the interregnum, it has proposed that it shall permit the airport operators of the major airports namely, Ahmadabad, Bengaluru, Chennai, Cochin, Calicut, Guwahati, Hyderabad, Jaipur, Kolkata and Trivandraum, to continue charging the tariffs for all aeronautical services at the existing approved rates (as on 28.02.2011) from 01.04.2011 till **new tariff is approved by the Authority and brought into effect.**

5. FIA notes the following aspects and seeks to draw them to the attention of the Authority :-

- (a) The proposed schedule for determination of the multi-year tariff order triggers with a multi-year tariff proposal filing for each airport by 01.07.2011. Given the fact that this is the first time that a regulatory regime is being developed and that some airport operators have stated at the recent stakeholder consultation that they are in the process of challenging the order dated 12.01.2011, it is possible that the filings may not be complete in time.
- (b) There is no proposed or indicative timelines proposed for issuing the multi-year tariff order. Further, given the fact that this is the first time that a regulatory regime is being developed, it is imminently likely that the stakeholder consultation and the consequent determination of the multi-year tariff order for each airport would require some time.
- (c) The airport operators are then expected to file their annual tariff proposal within 60 days of issue of the multi-year tariff order.
- (d) This would again go through a stakeholder consultation process followed by issue of the order which shall be implemented after 30 days of its issue.

6. It is reasonable to expect that with 14 airports to handle, the above process would require some sequencing since there are capacity constraints in handling 14 proceedings in parallel. It might be advisable to forthwith consider seeking an appropriate order from the Govt of India under Section 55 of the AERA Act to

- (a) Stagger the implementation of this regime across all major airports. The suggested sequencing could be:
 - (i) Mumbai and Delhi ... December 2011

- (ii) Second batch of airports ... March 2012
 - (iii) Third batch of airports ... June 2012
 - (iv) Fourth batch of airports ... September 2012
- (b) The 5 years may also be reckoned with from the date of commencement of the first MYT regime so that this bunching of multiple proceedings does not constrain the functioning of the Authority and the ability of the Stakeholders to meaningfully engage in the process.
7. It is submitted that the existing tariffs (in particular the fuel throughput and similar charges that have gone through multiple increases over the last couple of years) charged by the airport operators are already on a higher side. As such, it is important that the Authority puts in place a suitable truing-up mechanism whereby the operators are held to account for refund of any windfall or excess charges found to have been recovered by them since the enforcement of the AERA Act so that the time taken to bring a prudent and robust regime in place is not at the cost of the airlines and in turn to the passengers, especially in the case of low cost carriers. Therefore, it is respectfully submitted that:-
- (a) The Authority may provide for a time frame within which, it shall determine the tariffs that may be charged by the airport operators in the above mentioned major airports. Absence of indication of any time frame may lead to confusion and lack of clarity for the airlines.
 - (b) An opportunity of being heard shall be provided to the airlines during the consultation process re. tariff fixation for Mumbai and Delhi airports. }