Indian Airports - Understanding the Revenue Regime

Atul Sharma
Managing Partner

LINK LEGAL
India Law Services

New Delhi I I Mumbai I I Hyderabad I I Bangalore I I Chennai
Existing Airport Infrastructure
Growth and Future

Increase in airports

12th five year plan – 17 Greenfield and 6 Brownfield airports in the near future.

Passenger handling - Market size

India is 9th largest aviation market globally – to become 3rd largest aviation market by 2020 - domestic pax - 209 mn. and international pax - 60 mn. by 2017.

Rising PPP and investment

Five international airports completed by PPP model – Estimated investment to increase by 66.7 % to USD 9.3 bn.

Easing of FDI norms

From September 2012, FDI of 49% in air transport services permitted. 100% FDI allowed in airports.

MRO hub

Growth upto USD 1.5 bn. estimated by 2020. 100% FDI in MRO.
Regulatory Scenario

• Regulatory Bodies/Sectoral Policies
  – Directorate General of Civil Aviation - DGCA
  – Airport Infrastructure Policy

• Key Regulations (with rules issued thereunder)
  – Airports Authority of India Act, 1994
  – Aircraft Act, 1934
  – The Airport Economic Regulatory Authority of India Act, 2008
  – Other applicable legislation including the FEMA, environmental laws, labour, taxation

Proposed Legislations - Civil Aviation Authority of India Bill, 2012
Regulatory Overview

MOCA

DGCA & BCAS

AERA Act, 2008
Aircraft Act, 1934
AAI Act, 1994

Steering Committee (SA)

Green Field Policy
Site Clearance by SA
In-principle approval from SA
DGCA license
Proposal referred to MOCA

AAI Airports

AAI

Airport Co. Airports

Brown-field airport - AAI can assign to any third party

MOCA – Ministry of civil aviation
AERA - Airports Economic Regulatory Authority
DGCA – Director General of Civil Aviation
AAI – Airport Authority of India
Economic Regulation

- No airport regulatory authority at the time of signing of the concession agreement

- Section 13 of AERA Act

- Delhi/Mumbai – existing rates were valid for one year from April 2006 and then with revision of 10 percent after the first year and determination by AERA thereafter

- White paper/consultation paper issued by AERA for all airports pursuant to which tariff orders were passed for Delhi and Mumbai.

  (order 13 and 14 issued by AERA list out the regulatory philosophy and approach to regulate airport operators)
AERA determines the tariff for aero services taking the following into consideration:

- Capital expenditure incurred and timely investment in improvement of airport activities;
- The services provided, its quality and other relevant factors;
- The cost of improving efficiency;
- Economic and viable operation of major airports;
- Revenue received from services other than the aeronautical services;
- The concession offered by the Central Government in any agreement or MoU or otherwise; and
- Any other factor which may be relevant.
Popular Till Models

- Light touch
- Single Till
- Dual till
- Hybrid Till
Single Till

Regulatory Building Block Approach Single till
(RAB both Aero and Non-Aero)
Hybrid Till

Regulatory Building Block Approach Hybrid Till
(RAB Aero and a portion of Non Aero - In some cases only AERO)

![Diagram showing the relationship between CAPEX, REGULATORY ASSET BASE (RAB), RETURN ON RAB, DEPRECIATION, OPEX, Service Quality, Price Cap Regulation, and Single Till. The diagram includes a calculation for Some % of Non aero (eg. 30%) revenue leading to Aeronautical Yield per Passenger.]
Dual Till

Regulatory Building Block Approach Dual Till
(RAB only AERO)

- CAPEX
- Fair Rate of Return
- RETURN ON RAB
- DEPRECIATION
- Service Quality
- OPEX
- 0 % of Non-aero revenue
- Aeronautical Yield per Passenger

Price Cap Regulation
Dual Till
Greenfield Airports

• Existing Model

• Concession granted by the Ministry of Civil Aviation.
• Exclusivity – No new airport development within 150 kms. radius.
• Right to collect aero and non-aero revenues.
• Pay revenue share to AAI – For GHIAL @ 4% on the gross revenue; For BIAL @ 4% on the gross revenue.
• Tariff determination by AERA every 5 years or earlier, if required.
• Single Till approach of tariff determination by AERA:
  – Entire airport is considered to be one unit;
  – Pre-determined rate of return for the concessionaire; and
  – Profits from non-aero activities used to offset the aero cost base for determining airport charges.
Brownfield Airports

• Existing Model

• Lease of Airport to the Concessionaire under Section 12(4) of AAI Act.

• ROFR for development of new airport within 150 kms. radius.

• Right to collect aero and non-aero revenues.

• Pay revenue share to AAI – For DIAL @ 46% on the gross revenue; For MIAL @ 38.7% on the gross revenue.

• Tariff determination by AERA every 5 years or earlier, if required

• Hybrid Till approach of tariff determination by AERA:
  – Only aero charges are regulated;
  – Non-aero charges are not regulated; and
  – 30% of the non-aero revenues are accounted for subsidising the aero charges.
Brownfield Airports

- Proposed Model – RFQ Stage
  - License of Airport to the Concessionaire.
  - AAI may provide grant to the Concessionaire by way of equity support in accordance with the bids received.
  - Right to collect aero charges as per prescribed rates. Collect non-aero revenue and revenue from city side real estate.
  - Revenue share payment to commence from the 20th year of the COD, and to increase by 1% every subsequent year.
  - Tariff review by AERA every 5 years or earlier, if required on the basis of the following considerations (without limitation):
    - Traffic growth, RoI and costs incurred in operations; and
    - Adjustments and recoveries under the concession.
    - City side premium
Challenges to airports

• Current Experience
  – No single window approval process; multiple stakeholder communities
  – Stringent timelines for development
  – Heavy performance related penalties; service delivery depended on sovereign functions
  – Encroachments across airport land
  – Brownfield development; poor state of existing infrastructure
  – Availability of skilled manpower in airport development and operations
  – Lack of industry status granted; non-availability of lending at preferred rates

• Conflicts
  • Developers v. AERA
  • Concession Agreement v. AERA Act
Thank You