

Legislative Brief

The Airports Economic Regulatory Authority of India (Amendment) Bill, 2018

The Airports Economic Regulatory Authority of India (Amendment) Bill, 2018 was introduced in Lok Sabha on July 18, 2018. It amends the Airports Economic Regulatory Authority of India Act, 2008.

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[The Trafficking of Persons \(Prevention, Protection and Rehabilitation\) Bill, 2018](#)

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Highlights of the Bill

- ◆ The Act defines a major airport as a civilian airport with annual passenger traffic of over 15 lakh. The Bill increases this threshold to over 35 lakh.
- ◆ Under the Bill, AERA will not determine: (i) the tariff, (ii) tariff structures, or (iii) the development fees, in cases where these amounts were a part of the bid document on the basis of which the airport operations were awarded.

Key Issues and Analysis

- ◆ AERA was set up to regulate the growing competition in the airline industry, and to provide a level playing field among different categories of airports. Under the Bill, AERA will now regulate tariffs at fewer airports. It may be argued that instead of strengthening the role of the regulator, its purview is being reduced. Further, certain objectives of the Bill could be achieved by improving AERA's capacity.

PART A: HIGHLIGHTS OF THE BILL

Context

As on March 2018, there are 110 operational airports in India.¹ This includes 74 domestic, 26 international, and eight customs airports. Of these, seven are managed by private operators (joint ventures), and the remaining are operated by the Airports Authority of India (AAI), which is a body under the Ministry of Civil Aviation.

Over the last few years, private players have started operating civilian airports. These private airports run the risk of becoming a monopoly. This is because cities typically have one civilian airport which controls all aeronautical services in that area. To ensure that private airport operators do not misuse their monopoly, the need for an independent tariff regulator in the airport sector was felt. Consequently, the Airports Economic Regulatory Authority of India Act, 2008 (AERA Act) was passed which set up AERA. AERA regulates tariffs and other charges (development fee and passenger service fee) for aeronautical services (air traffic management, landing and parking of aircraft, ground handling services) at major airports. Major airports include civilian airports with annual traffic above 15 lakh passengers. In 2017-18, there were 31 such airports (see Table 1).² As of July 2018, 24 of these were being regulated by AERA.³ For the remaining airports, tariffs are determined by AAI.

Key Features

- **Definition of major airports:** The Act defines a major airport as one with annual passenger traffic over 15 lakh, or any other airports as notified by the central government. The Bill increases the threshold of annual passenger traffic for major airports to over 35 lakh.
- **Tariff determination by AERA:** Under the Act, AERA is responsible for determining: (i) the tariff for aeronautical services every five years, (ii) the development fees, and (iii) the passengers service fee. It can also amend the tariffs in the interim period. The Bill adds that AERA will not determine: (i) tariff, (ii) tariff structures, or (iii) development fees, in certain cases. These cases include those where such tariff amounts were a part of the bid document on the basis of which the airport operations were awarded. AERA will be consulted (by the concessioning authority, the Ministry of Civil Aviation) before incorporating such tariffs in the bid document, and such tariffs must be notified.

PART B: KEY ISSUES AND ANALYSIS

Role of AERA as an independent regulator

Role of the independent regulator might be getting weakened

Act: Under the Act, AERA regulates tariffs and development fee at all major airports. The Act defines a major airport as one with annual passenger traffic over 15 lakh, or any other airports as notified by the central government.
Section 2(i) When the AERA Bill was passed in 2008, there were 11 such airports. With increase in passenger traffic across airports, currently 31 airports are above this threshold. The Bill increases the threshold of annual passenger traffic for major airports to over 35 lakh. With this increase in threshold, 14 airports will be regulated by AERA.
Bill: It may be argued that instead of strengthening the role of the regulator, its purview is being reduced.
Clause 2

Before AERA was set up, AAI fixed the aeronautical charges for the airports under its control and prescribed performance standards for all airports and monitored them. Various committees had noted that AAI performed the role of airport operator as well as the regulator, which resulted in conflict of interest.^{4,5} Further, there was a natural monopoly in airports and air traffic control. In order to regulate the growing competition in the airline industry, and to provide a level playing field among different categories of airports, AERA was set up.⁶ During the deliberations of the Standing Committee examining the AERA Bill, 2007, the Ministry of Civil Aviation had noted that AERA should regulate tariff and monitor performance standards only at major airports.⁵ Depending upon future developments in the sector, other functions could be subsequently assigned to the regulator.⁵

Certain objectives of the Bill could be achieved by improving the capacity of AERA

The Statement of Objects and Reasons of the Bill states that the exponential growth of the sector has put tremendous pressure on AERA, while its resources are limited. Therefore, if too many airports come under the purview of AERA, it will not be able to perform its functions efficiently. If the challenge for AERA is availability of limited resources, the question is whether this problem may be resolved by reducing its jurisdiction (as the Bill is doing), or by improving its capacity.

There may be frequent changes in the regulatory regime

Currently, there are 31 major airports (annual traffic above 15 lakh), and AERA regulates tariffs at 24 of these.^{2,3} Under the Bill, AERA will regulate 14 major airports (annual traffic above 35 lakh). The remaining 10 airports will be regulated by AAI. Till 2030-31, air traffic in the country is expected to grow at an average annual rate of 10-11%.⁷ This implies that in a few years, the traffic at the other 10 airports will increase to over 35 lakh and they will again fall under the purview of AERA. This may lead to constant changes in the regulatory regime at these airports. The table below provides the current list of major airports:

Table 1: List of major airports in India (as on October 2018)

Airports with annual traffic above 35 lakh			Airports with annual traffic between 15 and 35 lakh			
Ahmedabad	Goa	Lucknow	Amritsar*	Coimbatore	Port Blair*	Varanasi*
Bengaluru	Guwahati	Mumbai	Bagdogra*	Indore	Raipur*	Vishakhapatnam
Chennai	Hyderabad	Pune	Bhubaneswar	Mangalore	Ranchi*	
Cochin	Jaipur	Thiruvananthapuram	Calicut	Nagpur	Srinagar	
Delhi	Kolkata		Chandigarh	Patna	Trichy*	

* - AERA does not regulate tariffs at these airports currently.

Sources: AAI Traffic News; AERA website; PRS.

1. Handbook on Civil Aviation Statistics, 2017-18, <http://dgca.nic.in/reports/hand-ind.htm>.
2. AAI Traffic News, Annexure III, March 2018, <https://www.aai.aero/sites/default/files/traffic-news/Mar2k18annex3.pdf>.
3. Major airports, Airports Economic Regulatory Authority of India website, last accessed on October 1, 2018, <http://aera.gov.in/content/airport.php#>.
4. Report of the Committee on a Roadmap for the Civil Aviation Sector, Ministry of Civil Aviation, November 23, 2003, www.prsindia.org/uploads/media/AERA/bill149_20080311149_Naresh_Chandra_Committee_Report_on_Civil_Aviation.pdf.
5. 133rd Report: The Airports Economic Regulatory Authority of India Bill, 2007, Standing Committee on Transport, Tourism and Culture, April 17, 2008, http://164.100.47.5/committee_web/ReportFile/20/102/133.pdf.
6. The Airports Economic Regulatory Authority Bill, 2007, http://www.prsindia.org/uploads/media/AERA/1189057428_Airports.pdf.
7. "Volume 3, Chapter 3: Civil Aviation", India Transport Report: Moving India to 2032, National Transport Development Policy Committee, June 17, 2014, http://planningcommission.nic.in/sectors/NTDPC/volume3_p1/civil_v3_p1.pdf.

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