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Kris Peach
The Chair
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15 January 2015

Dear Kris

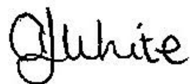
Discussion Paper DP 2014/2 – Reporting the Financial Effects of Rate Regulation

Thank you for the opportunity to respond to the Australian Accounting Standard Board's Exposure Draft *Reporting the Financial Effects of Rate Regulation* (which incorporates IASB DP/2014/2 of the same name).

I am enclosing a copy of Deloitte Touche Tohmatsu Limited's comment letter to the International Accounting Standards Board's Discussion Paper 2014/2.

This letter reflects the views of the Deloitte Touche Tohmatsu Limited network of the member firms (Deloitte Global) and, therefore, includes our own comments on the Discussion Paper.

Yours sincerely



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Hans Hoogervorst
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15 January 2015

Dear Mr Hoogervorst

Discussion Paper DP 2014/2 – Reporting the Financial Effects of Rate Regulation

Deloitte Touche Tohmatsu Limited is pleased to respond to the International Accounting Standards Board's (the IASB's) Discussion Paper *Reporting the Financial Effects of Rate Regulation* ('the discussion paper').

Accounting for rate regulation continues to be a significant issue in many jurisdictions including for some existing IFRS preparers who are not able to take advantage of the transitional relief afforded by IFRS 14 *Regulatory Deferral Accounts*. In addition, following the publication of IFRS 15 *Revenue from Contracts with Customers* questions have been raised about the effect of that Standard on the recognition of revenue relating to rate regulated activities. For these reasons, we welcome the Board's progress in addressing this issue. Given the scope of the issue, we also believe it is critical that the output of this project is capable of dealing with the range of regulatory regimes in existence.

We agree that a focus on the rights and obligations arising from rate regulation is necessary to determine whether these give rise to assets and/or liabilities that meet the criteria for recognition per the *Conceptual Framework for Financial Reporting* and that the hybrid scheme described as 'defined rate regulation' in the discussion paper captures many of the features of regulatory regimes encountered in practice.

Consideration of such features should facilitate the identification of any features of rate regulation that, individually or in combination, give rise to separately recognisable assets or liabilities as well as features that might nullify such an asset or liability. Such an approach should also enable the production of guidance that differentiates between regimes based on differences in economic substance rather than in a requirement to apply any specific accounting either in full or not at all depending on whether a regime is 'scoped in'.

We believe that a critical element of the Board's considerations will be analysing the unit of account for recognising revenue arising from the provision of rate regulated goods or services. If that unit of account were identified as the population or customer base (possibly current and future) as a group rather than

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each individual within that population then, in view of the role of the regulator (which can be considered as an agent of the state, as enactor of a 'regulatory contract' or as representative of the collective interests of customers), the interaction with the requirements of IFRS 15 on variable consideration would need to be assessed. This will be important in evaluating the view expressed by some that IFRS 15 already requires an adjustment to revenue in respect of certain aspects of rate regulation.

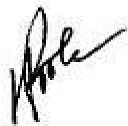
In addition, in circumstances where the outcome of a rate setting exercise is subject to some degree of uncertainty, it will be important to determine the level of confidence required to evidence the existence of a right or obligation.

Following this analysis, we recommend that the next step in the project be an accounting discussion paper preceding the development of any new Standard or amendment to existing standards.

Our detailed responses to the questions in the invitation to comment are included in the Appendix to this letter.

If you have any questions concerning our comments, please contact Veronica Poole in London at +44 (0) 20 7007 0884.

Yours sincerely



Veronica Poole
Global IFRS Leader

Appendix

Question 1

(a) What information about the entity's rate-regulated activities and the rate-regulatory environment do you think preparers of financial statements need to include in their financial statements or accompanying documents such as management commentary?

Please specify what information should be provided in:

(i) the statement of financial position;
(ii) the statement(s) of profit or loss and other comprehensive income;
(iii) the statement of cash flows;
(iv) the note disclosures; or
(v) the management commentary.

(b) How do you think that information would be used by investors and lenders in making investment and lending decisions?

Information about rate-regulated activities and a rate-regulatory environment could, along with any other information about governmental influence on an entity's activities, be used in a variety of ways (for example, in assessing the future cash flows of the entity as well as political risk to which an entity is exposed). Users are better placed to comment on how such information is used in practice, although we are aware of views from users of financial statements (particularly in the utilities industries) that they use information on an entity's regulatory deferral account(s) and would value the assurance of its inclusion in audited financial statements.

To ensure comparability between entities in different industries, we believe that, rather than being an exception to established general principles of financial reporting, the reporting of entities operating in a rate-regulatory environment should be based on the same underlying concepts as that of entities in other environments. As such, we recommend that the IASB's consideration of the appropriate financial reporting treatment of rate-regulation commence with an analysis of the rights and obligations arising from such an environment. This should then facilitate identification of which, if any, of these create assets or liabilities as defined in the *Conceptual Framework for Financial Reporting* and the extent to which disclosure is necessary to explain those rights and obligations.

Following this analysis, we recommend that the next step in the project be an accounting discussion paper preceding the development of any new Standard or amendment to existing standards.

Question 2

Are you familiar with using financial statements that recognise regulatory deferral account balances as regulatory assets or regulatory liabilities, for example, in accordance with US generally accepted accounting principles (GAAP) or other local GAAP or in accordance with IFRS 14? If so, what problems, if any, does the recognition of such balances cause users of financial statements when evaluating investment or lending decisions in rate-regulated entities that recognise such balances compared to:

(a) non-rate-regulated entities; and
(b) rate-regulated entities that do not recognise such balances?

This response is submitted on behalf of member firms of the Deloitte Touche Tohmatsu network. This network includes member firms operating in jurisdictions that permit or require companies to report under a range of accounting frameworks, including IFRSs, US GAAP, other local GAAPs that require the recognition of regulatory deferral account balances and other local GAAPs that prohibit such recognition. In our capacity as auditors of financial statements in those jurisdictions we have been involved in accounting for regulatory deferral account balances under both local GAAPs and IFRS 14 (although we note that, at the current time, application of IFRS 14 is at an early stage for many entities).

While users are better placed to comment on their evaluation of investment or lending decisions, as a general point, application of different accounting requirements to equivalent transactions (for example, recognition or non-recognition of regulatory deferral balances by entities subject to equivalent regulations) will always create a difference that users will need to reconcile if they are to perform a meaningful comparison between entities. However, it should be noted that such a reconciliation might be complicated by differences between the regulatory regimes in different jurisdictions – applying accounting requirements designed for regulation as enacted in one jurisdiction to another jurisdiction's regime could give the impression of comparability whilst masking real differences in the economic conditions to which different entities are subject.

For this reason, we do not believe that a binary distinction between "rate-regulated" and "non-rate-regulated" entities is an ideal starting point for considerations. Rather, as discussed elsewhere in this letter, we believe the focus should be on the rights and obligations created by the salient features of rate-regulation as this is more likely to result in a model that can be applied in a variety of jurisdictions.

Question 3

Do you agree that, to progress this project, the IASB should focus on a defined type of rate regulation (see Section 4) in order to provide a common starting point for a more focused discussion about whether rate regulation creates a combination of rights and obligations for which specific accounting guidance or requirements might need to be developed (see paragraphs 3.6–3.7)? If not, how do you suggest that the IASB should address the diversity in the types of rate regulation summarised in Section 3?

We agree that a focus on the rights and obligations arising from rate regulation is necessary to determine whether these give rise to assets and/or liabilities that meet the criteria for recognition per the Conceptual Framework and that the hybrid scheme described as 'defined rate regulation' in the discussion paper captures many of the features of regulatory regimes encountered in practice (including those detailed in our response to Question 5 below).

Consideration of such features should facilitate the identification of any features of rate regulation that, individually or in combination, give rise to separately recognisable assets or liabilities as well as features that might nullify such an asset or liability and enable the production of guidance that differentiates between regimes based on differences between the rights and obligations that they create. Such an approach should also enable the production of guidance that differentiates between regimes based on differences in economic substance rather than in a requirement to apply any specific accounting either in full or not at all depending on whether a regime is 'scoped in'.

In addition, assessment of a wide range of features of rate regulation in developing guidance should assist in avoiding operational difficulties in applying that guidance to regulation as it exists in practice.

Question 4

Paragraph 2.11 notes that the IASB has not received requests for it to develop special accounting requirements for the form of limited or 'market' rate regulation that is used to supplement the inefficient competitive forces in the market (see paragraphs 3.30–3.33).

(a) Do you agree that this type of rate regulation does not create a significantly different economic environment and, therefore, does not require any specific accounting requirements to be developed? If not, why not?
(b) If you agree that this type of rate regulation does not require any specific accounting requirements, do you think that the IASB should, alternatively, consider developing specific disclosure requirements? If so, what would you propose and why?

We agree that the 'capping' of prices to ensure the affordability of specific goods or services considered to be beneficial to the population as a matter of public policy is a common phenomenon.

Such legislation is generally intended to create a different economic environment, being that of pricing different from that which would result from an entirely unregulated market and in that respect is similar to 'defined rate regulation' as discussed in section 4 of the discussion paper. However, it differs from such regimes in that:

- the permitted pricing is typically not directly affected by the cost of providing the good or service (resulting in no 'under-billing' or 'over-billing' of the type described in the discussion paper);
- 'caps' or 'floors' on prices may exist where there is effective competition for supply and in respect of goods and services that individuals can decide whether, and to what extent, they wish to consume; and
- the enforcement options available for breach of legislation may differ (of the possibilities described in paragraph 4.75 of the discussion paper, only fines or penalties are likely to be possible).

We do not, however, agree that such regimes should simply be excluded from the scope of the project. Rather, we believe that a comprehensive analysis of the rights and obligations arising from rate regulation should result in the establishment of principles that can be applied to determine whether assets and/or liabilities capable of separate recognition arise and, if so, the conditions that are necessary for them to exist. It should then be possible to determine whether distinctions between regimes such as those described properly result in different accounting treatments.

If it is determined that such regimes do not give rise to separately recognisable assets and/oor liabilities, then in terms of specific disclosure only requirements, we note that the actions of government can affect entities in many ways. As described in our response to Question 9 below, we believe that management commentary is often the appropriate forum for discussion of these effects.

Question 5

Paragraphs 4.4–4.6 summarise the key features of defined rate regulation. These features have been the focus of the IASB's exploration of whether defined rate regulation creates a combination of rights and obligations for which specific accounting guidance or requirements might be developed in order to provide relevant information to users of general purpose financial statements.

(a) Do you think that the description of defined rate regulation captures an appropriate population of rate-regulatory schemes within its scope? If so, why? If not, why not?
(b) Do you think that any of the features described should be modified in order to include or exclude particular types of rate-regulatory schemes or rate-regulated activities included within the scope of defined rate regulation? Please specify and give reasons to support any modifications to the features that you suggest, with particular reference to why the features may or may not give rise to circumstances that result in particular information needs for users of the financial statements.
(c) Are there any additional features that you think should be included to establish the scope of defined rate regulation or would you omit any of the features described? Please specify and give reasons to support any features that you would add or omit.

As discussed in our response to Question 3 above, we believe that consideration of a broad spectrum of the features of rate regulation that exist in practice (many of which are reflected in the 'defined rate regulation' described in the discussion paper) should inform a comprehensive consideration of the rights and obligations arising from regulation.

In addition to the features described in paragraphs 4.4-4.6 of the discussion paper, we believe that the analysis should include the following.

- Incentivisation – as acknowledged in the discussion paper most, if not all, rate regulation includes some element of incentivisation for providing goods or services in an efficient manner. We recommend an enhanced analysis of whether incentivisation affects (or, depending on the extent of incentivisation, nullifies) rights and obligations that would otherwise arise from rate regulation or whether it results in other rights and obligations. The 'incentive based' element of a permitted rate can arise through a variety of mechanisms such as:
  - measuring the extent to which defined outputs or outcomes are delivered more efficiently or less efficiently than assumed by the regulator; or
  - the provision of financial incentives to encourage non-financial outcomes such as enhanced customer service, reduced complaints, reduced environmental impacts or lower outage rates.

  Incentives can also be measured over an extended period of time (for example, cumulative customer service improvements over five years). In such circumstances, it will be necessary to determine when any rights or obligations arise.

- Alternative means of recovery of regulatory deferral accounts – distinct from the circumstances described in paragraphs 4.26-4.29 of the discussion paper, which involve the primary form of settlement being directly with the rate regulator, there are regimes under which recovery is intended (and fully expected) to occur through subsequent billings to customers but regulation allows for an alternative means of recovery in the event that this is not achieved (for example, we are aware of a regime in which the government guarantees recovery of regulatory deferral accounts). We recommend an analysis of when, if ever, a 'secondary' method of recovery affects the recognition of an asset or liability or their classification (for example, by introducing a financial asset or liability that would not otherwise exist).

- Transferability of regulatory deferral accounts – some regulatory deferral accounts can, in specified circumstances, be transferred to another party. As with recovery through alternative means, this may be possible only in rare circumstances (such as loss of a licence) but still merits consideration in terms of the possible effect on recognition and classification of assets and/or liabilities.

In terms of the features described in paragraphs 4.4-4.6 of the discussion paper, we note the following.

- Essential goods or services – as discussed in paragraph 4.32 of the discussion paper, the identification of whether certain goods or services are 'essential' is to some extent subjective, particularly in identifying goods or services which customers have 'little or no choice' but to purchase. For example, access to high speed internet access may be essential to one person due to the nature of their job whilst to another person in the same community it may be much less important. In other circumstances, there may be an alternative good or service but a significant cost to switching to that alternative (for example, converting a heating system from gas to electricity). The extent of choice available may also differ between an individual and the population as a whole. For example, an individual could choose to travel by car rather than by public transport, but an effective public transport system used by a significant proportion of the population may be essential to a city's economic activity. To address circumstances such as these and the examples described in paragraphs 4.38-4.39 of the discussion paper it will be necessary to determine whether rights and obligations arise as a result of the good or service in question being 'essential' or whether this is simply a driver for the introduction of legislation to regulate prices. If rights and obligations are determined to arise, they should be clearly identified so that the existence of these can be assessed in circumstances where a proportion of the population may find an alternative good or service or decide not to use the good or service at all.

- No effective competition to supply – we agree that a monopolistic environment is economically different from one in which effective competition exists and recommend that this be assessed as part of the consideration of the unit of account referred to in our response to Question 7 below as it is sometimes argued that a monopoly is necessary for the consideration of the customer base as a whole rather than an individual within that population. However, we recommend that this analysis is clear on what is meant by a 'monopoly' as there are circumstances in which an operator has the exclusive right to provide only part of the operations necessary to provide goods or services to the end customer. In addition, there may be more than one operator in the market but effective barriers (either natural or regulatory) to any new entrants. The Board should consider whether rights and obligations that exist in a pure monopoly also exist in such circumstances. A monopoly (or duopoly or oligopoly) may also exist over provision of a good or service to an entire country, or a defined region within a country. Variation in this sense should be considered in determining how 'a market' is defined for the purposes of considering whether a monopoly exists.

- The rate-setting mechanism – paragraphs 4.77-4.79 of the discussion paper describe a stable rate-setting regime with limited discretion available to the rate regulator. We believe that an important element of the project should be considering how any variability in the regime or discretion afforded to the regulator might affect the rights and obligations that would otherwise exist. Similar to incentivisation, the degree of regulatory discretion varies between regimes (and is often subject to various checks and balances) but can be significant in some jurisdictions. For example:

  - a regulatory regime may evolve over time, with items treated differently as the rate regulator applies its discretion differently;

- regulatory regimes may have different mechanisms for dealing with unexpected events, for example some relatively rare events (for example severe weather) may be catered for by the specific terms of the regime but more unexpected events may not have been envisaged in determining the mechanics of the rate-setting mechanism. As such, the government or rate regulator may have significant discretion in determining the effect of an unforeseen event on the permitted rate;
- a regulator might have discretion not only over *whether* a cost can be recovered but also *when* that recovery will be permitted (for example, by addition to permitted billings in the next year or by addition to the permitted cost of an asset to be recovered over a much longer period); and
- in some jurisdictions, a regulator can retrospectively 'disallow' recovery of a past cost through the rate-setting mechanism (if, for example, that expenditure fails to result in promised improvements in the service provided).

It might also be necessary to distinguish between the exercise of regulatory discretion within a regulatory regime and a government decision to amend the terms of that regime or to override those terms to set a rate that is deemed appropriate from a public policy perspective.

Question 6

Paragraphs 4.62–4.72 contain an analysis of the rights and obligations that arise from the features of defined rate regulation.

(a) Are there any additional rights or obligations that you think the IASB should consider? Please specify and give reasons.

(b) Do you think that the IASB should develop specific accounting guidance or requirements to account for the combination of rights and obligations described? Why or why not?

We agree that the rights and obligations typically arising from rate regulation as defined in section 4 of the discussion paper can be allocated to the three categories (exclusive right to supply, obligation to achieve service level and a right to recover revenue requirement using the rate-setting mechanism) identified in paragraphs 4.62-4.72 of the discussion paper. As noted in paragraph 4.72 of the discussion paper, obligations to 'refund revenue' in the event of 'over-billings' are also typically as important a feature of rate regulation as rights to 'recover revenue' arising from 'under-billings'. However, as noted in our responses to Questions 4 and 5 above we recommend that the IASB's project cover a wide range of features of rate regulation and it is possible that this analysis will identify different rights or obligations.

As discussed further in our response to Question 7 below, we think it is premature to conclude on what form the final output of this project should take. We do, however, note that accounting for rate regulation continues to be a significant issue in many jurisdictions including for some existing IFRS preparers who are not able to take advantage of the transitional relief afforded by IFRS 14. In addition, following the publication of IFRS 15 questions have been raised about the effect of that Standard on the recognition of revenue relating to rate regulated activities. For these reasons, we believe it is critical that the output is capable of dealing with the range of regulatory regimes in existence.

Question 7

Section 5 outlines a number of possible approaches that the IASB could consider developing further, depending on the feedback received from this Discussion Paper. It highlights some advantages and disadvantages of each approach.

(a) Which approach, if any, do you think would best portray the financial effects of defined rate regulation in IFRS financial statements and is most likely to provide the information that investors and lenders consider is most relevant to help them make their investing and lending decisions? Please give reasons for your answer?
(b) Is there any other approach that the IASB should consider? If so, please specify and explain how such an approach could provide investors and lenders with relevant information about the financial effects of rate regulation.
(c) Are there any additional advantages or disadvantages that the IASB should consider before it decides whether to develop any of these approaches further? If so, please describe them.

If commenting on the asset/liability approach, please specify, if it is relevant, whether your comments reflect the existing definitions of an asset and a liability in the Conceptual Framework or the proposed definitions suggested in the Conceptual Framework Discussion Paper, published in July 2013.

We recognise that Section 5 of the discussion paper provides a good summary of the arguments made for and against various possible approaches to accounting for rate regulated activities. However, we believe that it would be premature to settle upon an approach prior to completion of a full analysis of the rights and obligations arising from rate regulation and whether they result in assets and/or liabilities as defined in the Conceptual Framework. To ensure that this analysis remains valid for the foreseeable future, we recommend that it be conducted to be consistent with the definitions of assets and liabilities resulting from the Board's current project to revise its Conceptual Framework. As stated in our response to discussion paper DP/2013/1 *A Review of the Conceptual Framework for Financial Reporting*, the necessity for any departure from the Conceptual Framework should be evaluated carefully and identified and justified in the Basis for Conclusions on any resulting Standard or Interpretation.

We recommend that the project also be managed to reflect the outcome of considerations of the 'unit of account' as part of the Conceptual Framework. As noted below, this is likely to be a critical element in the identification of any separately recognisable assets or liabilities arising from rate regulation.

That said, in completing a technical analysis of whether assets and/or liabilities exist, we recommend that the Board also consider the following.

- The Unit of Account – debates around the appropriateness of deferring or accelerating the recognition of revenue (as compared to the billings for goods or services provided to date) often centre around the unit of account for recognising that revenue. If that unit of account were identified as the population or customer base (possibly current and future) as a group rather than each individual within that population then, in view of the role of the regulator (which can be considered as an agent of the state, as enactor of a 'regulatory contract' or as representative of the collective interests of customers), the interaction with the requirements of IFRS 15 on variable consideration would need to be assessed. As stated in our response to Question 13 below, some hold the view that these requirements apply in some rate regulated environments.

- Gradations of probability – the outcome of a rate setting exercise can be subject to varying degrees of uncertainty, leading to questions of what level of confidence is required to evidence the existence of a right or obligation for the purposes of recognition of any asset or liability that is determined to exist.

- Measurement – Measurement may be a challenging issue when there is uncertainty over the amount and/or timing of cash flows arising from rate regulated activities. It will be important for the Board to consider initial and subsequent measurement of any separately recognisable assets or liabilities identified in its analysis of rate regulated environments.

Question 8

Does your organisation carry out activities that are subject to defined rate regulation? If so, what operational issues should the IASB consider if it decides to develop any specific accounting guidance or requirements?

We do not carry out activities subject to rate regulation of the type described in the discussion paper.

Question 9

If, after considering the feedback from this Discussion Paper and the Conceptual Framework project, the IASB decides to prohibit the recognition of regulatory deferral account balances in IFRS financial statements, do you think that the IASB should consider developing specific disclosure-only requirements? If not, why not? If so, please specify what type of information you think would be relevant to investors and lenders in making their investing or lending decisions and why.

We believe it would be premature to rule out any course of action at this stage and agree that information about the regulatory regime(s) to which an entity is subject and the current status of any regulatory deferral accounts would, given the pervasive effect this could have on the entity's future cash flows, be of use in making investing or lending decisions. We also note the general requirement in IAS 1 to disclose significant judgements made in preparing financial statements as the effects of rate regulation may be a significant factor in, for example, an review of an entity's assets for impairment.

However, following the approach set out in our response to Question 3 of the discussion paper, prohibition of the recognition of any balances relating to rate regulation would be the result of a conclusion that rate regulation (however that term is defined) does not result in separately recognisable assets and liabilities as defined in the Conceptual Framework. We note that there are other examples of governmental action that do not, in themselves, give rise to the recognition of assets and liabilities (albeit, they may affect the recognition or measurement of other assets and liabilities) but will, similarly, have an effect on future cash flows (for example, a levy for which the obligating event has not occurred at the reporting date, a decision to grant or deny regulatory approval for a food or drug product or the granting or expiry of a patent). IFRSs do not typically require disclosure of such items and as such, we believe that prior to prescribing disclosure in the financial statements it would be appropriate for the Board to consider whether rate regulation is sufficiently significant to merit this.

In addition we encourage high level narrative reporting and believe that voluntary narrative disclosure on the impact of rate regulation is already typically provided by affected entities.

We also recommend that the necessity for any additional disclosure requirements be considered in the context of the Board's Disclosure Initiative to assist in determining whether inclusion of information on

rate regulation in audited financial statements is necessary or whether narrative reporting on its effects is sufficient.

Question 10

Sections 2 and 6 discuss some of the information needs of users of general purpose financial statements. The IASB will seek to balance the needs of users of financial statements for information about the financial effects of rate regulation on an entity's operations with concerns about obscuring the understandability of financial statements and the high preparation costs that can result from lengthy disclosures (see paragraph 2.27).

(a) If the IASB decides to develop specific accounting requirements for all entities that are subject to defined rate regulation, to what extent do you think the requirements of IFRS 14 meet the information needs of investors and lenders? Is there any additional information that you think should be required? If so, please specify and explain how investors or lenders are likely to use that information.

(b) Do you think that any of the disclosure requirements of IFRS 14 could be omitted or modified in order to reduce the cost of compliance with the requirements, without omitting information that helps users of financial statements to make informed investing or lending decisions? If so, please specify and explain the reasons for your answer.

In terms of disclosure, we believe that the objective expressed in paragraph 27 of IFRS 14 (to disclose information enabling users to assess the nature of, and the risks associated with, the rate regulation that establishes the price(s) that the entity can charge customers for the goods or services it provides and the effects of that rate regulation on its financial position, financial performance and cash flows) is likely to be appropriate in supporting any recognition of assets and liabilities in respect of rate regulation and that disclosures providing information on key judgements made are likely to be particularly valuable.

We would expect the detailed guidance supporting this objective to be determined to a large extent by the nature of the assets and/or liabilities to be recognised.

Question 11

IFRS 14 requires any regulatory deferral account balances that have been recognised to be presented separately from the assets and liabilities recognised in the statement of financial position in accordance with other Standards. Similarly, the net movements in regulatory deferral account balances are required to be presented separately from the items of income and expense recognised in the statement(s) of profit or loss and other comprehensive income.

If the IASB develops specific accounting requirements that would apply to both existing IFRS preparers and first-time adopters of IFRS, and those requirements resulted in the recognition of regulatory balances in the statement of financial position, what advantages or disadvantages do you envisage if the separate presentation required by IFRS 14 was to be applied?

If specific accounting requirements were to apply to all IFRS preparers subject to rate regulation, some of the factors noted in the Basis for Conclusions on IFRS 14 relating to the separate presentation of regulatory deferral account balances would apply (comparability with the property, plant and equipment and intangible assets of non-rate-regulated entities) whilst others would not (comparability with comparable rate-regulated entities that do not recognise regulatory deferral account balances, separate

presentation until the consideration of the more fundamental issues about accounting for rate-regulated activities is completed).

To allow comparison between regulated and non-regulated entities and between entities subject to different regulatory regimes, we believe that a presentation allowing users to identify easily the effect of regulatory deferral account balances on the financial statements might be desirable. However, this would also depend on the nature of any asset or liability recognised. Also, we do not believe that the extreme segregation of regulatory deferral account balances and the movements therein required by IFRS 14 would be necessary in an environment in which all rate-regulated entities (however that population is defined) recognise regulatory deferral accounts on a consistent basis.

In respect of both presentation and disclosure (as discussed in our response to Question 10 above), we recommend that the views of users be sought to determine the information they would find most useful in making lending and investing decisions.

Question 12

Section 4 describes the distinguishing features of defined rate regulation. This description is intended to provide a common starting point for a more focused discussion about whether this type of rate regulation creates a combination of rights and obligations for which specific accounting guidance or requirements should be developed.

Paragraph 4.73 suggests that the existence of a rate regulator whose role and authority is established in legislation or other formal regulations is an important feature of defined rate regulation. Do you think that this is a necessary condition in order to create enforceable rights or obligations, or do you think that co-operatives or similar entities, which operate under self-imposed rate regulation with the same features as defined rate regulation (see paragraphs 7.6–7.9), should also be included within defined rate regulation? If not, why not? If so, do you think that such co-operatives should be included within the scope of defined rate regulation only if they are subject to formal oversight from a government department or other authorised body?

We believe that the enforceability of rate regulation is an important feature and is likely to be necessary in determining that any asset or liability (as defined in the Conceptual Framework) exists.

The enforceability of rate regulation can most readily be determined when there is a rate regulator whose role and authority is established in legislation or other formal regulations because, as discussed in paragraph 4.75 of the discussion paper, such a regulator can typically impose a variety of sanctions in the event of a failure to comply with the regulatory regime whilst a co-operative agreement may be more in the nature of a statement of intent. In addition, legislation can provide an effective means of imposing obligations on customers to pay the prescribed rates for the goods or services provided.

However, we do not believe it is appropriate to assume that enforceable rate regulation exists only in these circumstances (to extend the analogy in paragraph 4.73 of the discussion paper, a restructuring provision can be recognised in the absence of legislation requiring a restructuring to be completed) or that regulatory regimes should be differentiated solely on the basis of the identity of the enforcing party as it is clear in other circumstances that enforceable rights and obligations can be imposed by contract as well as by legislation.

For this reason, we do not believe that rate regulation operating other than through legislation should be excluded from the Board's considerations. Rather, we recommend that the consequences of non-

compliance and non-payment by customers (either individually or as a group) be considered in analysing the existence of rights and obligations and in determining how enforceable or otherwise any form of rate regulation might be.

Question 13

Paragraphs 7.11–7.22 highlight some of the issues that the IASB may consider if it continues to progress this project.

Do you have any comments or suggestions on these or any other issues that may or may not have been raised in this Discussion Paper that you think the IASB should consider if it decides to develop proposals for any specific accounting requirements for rate-regulated activities?

We agree that the issues highlighted in paragraph 7.11-7.22 of the discussion paper would require consideration in developing any specific accounting requirements for rate-regulated activities.

In addition.

- As noted in paragraph 7.16 of the discussion paper, some hold the view that IFRS 15 already requires an adjustment to revenue in respect of certain aspects of rate regulation (particularly on the unit of account to be applied in identifying the customer and whether that Standard's requirements on the measurement of variable revenues apply to any adjustments made through billings in subsequent periods). Given this, we recommend that the application of that Standard to the provision of goods or services subject to rate regulation be clarified regardless of whether any special accounting requirements are developed for rate-regulated activities.

- We agree that interaction with IFRIC 12 would be an important consideration as some form of rate regulation is a common feature of activities that are either within the scope of that Interpretation or that share many of the salient features of a Service Concession Arrangement. Due to that commonality, we would be concerned by an approach of simply excluding activities subject to IFRIC 12 from the scope of any specific accounting requirements for rate-regulated activities. If it is determined that assets and/or liabilities as defined in the Conceptual Framework arising from rate regulated activities not within the scope of IFRIC 12 also exist in respect of activities subject to that Interpretation, then in the absence of a substantive difference arising from the terms of Service Concession Arrangements we would consider their recognition to be equally appropriate.

- Interactions with IAS 20 could arise more broadly than as described in paragraphs 7.18-7.19 of the discussion paper, particularly in determining whether any receipt of cash or other assets from or on behalf of government is in the nature of revenue for the provision of goods or services or a government grant.

As noted in our response to Question 1 above, we recommend that the next step in the project be an accounting discussion paper preceding the development of any new Standard or amendment to existing standards.