



Australian Government

Australian Accounting
Standards Board

Level 7, 600 Bourke Street
MELBOURNE VIC 3000
Postal Address
PO Box 204
Collins Street West VIC 8007
Telephone: (03) 9617 7600
Facsimile: (03)9617 7608

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Sir David Tweedie
Chairman
International Accounting Standards Board
30 Cannon Street
London EC4M 6XH
United Kingdom

Dear Sir David,

Near-Final Draft IFRIC Interpretation
Service Concession Arrangements

The Australian Accounting Standards Board (AASB) appreciates the invitation to participate in the public hearing on 13 November concerning the proposed Interpretation, but is unable to provide a delegate. We have focussed in this letter on only two matters that we believe the IASB can address in finalising the IFRIC Interpretation at its November meeting. Nevertheless, the AASB has other significant concerns with the proposed Interpretation, as raised in the June 2005 submission of the AASB's Urgent Issues Group to the IFRIC in respect of the Draft Interpretations D12, D13 and D14.

Australian grantors and operators have embraced service concession arrangements as an innovative way to provide infrastructure and deliver infrastructure-related services. Operators construct, manage and control all the major risks and benefits for 30 to 50 years associated with billions of dollars of investments in toll roads, airports, ports and railways. It is within this context that we have considerable reservations with the proposed Interpretation.

The Interpretation would be likely to have a significant impact on financial reporting in Australia as operators typically recognise infrastructure assets under service concession arrangements and grantors typically do not (except perhaps in relation to residual interests in infrastructure assets).

Control versus Regulation

Paragraph 5(a) of the proposed Interpretation states that it would apply to public-to-private service concession arrangements if the grantor "controls or regulates" the services that the operator must provide with the infrastructure, to whom, and at what price. We are particularly concerned with the reference here to regulation as a factor in determining control, and request the IASB to delete the reference to "regulates" in paragraph 5(a) and the attendant application guidance in paragraph AG2.

The interpretation of control should depend on the substance of the arrangement without referring to the form of regulation under which the service concession operates. The inclusion of rights or responsibilities of related parties of a grantor in assessing control or regulation inappropriately blurs the line between entities. The elements of financial statements are defined in the *Framework for the Preparation and Presentation of Financial Statements* in relation to individual entities, not entities in conjunction with their related parties.

Furthermore, regulators acting in the public interest, also noted in paragraph AG2, by definition do not act in the interest of a government that might have established the regulator or provide on-going funding etc. It is inappropriate therefore to assess the issue of control over infrastructure assets by the operator or a public sector grantor by reference to whether a regulator established in the same jurisdiction has any regulatory role in relation to the service concession arrangement. Such regulatory arrangements do not affect the assessment of control of assets in respect of contracts between private sector entities.

We do have significant concerns over the emphasis upon control with little reference to the locus of risks and benefits. Other IFRSs do not take this approach. For example, finance leases are required to be recognised as assets of the lessee because sufficient of the risks and benefits (or rights and obligations) of the underlying leased items are suffered or enjoyed by the lessee. The artificial distinction between operating and finance leases can be resolved by allowing the unbundling of the future economic benefits inherent in the underlying leased items, and the same approach could well apply to infrastructure assets that are subject to service concession arrangements. However, the AASB appreciates that this is a major issue, potentially with fundamental effects on the accounting for service concession arrangements, and thus requests the IASB to address at least the regulation aspect noted above.

Effective Date

The effective date stated in paragraph 28 of the proposed Interpretation is annual periods beginning on or after 1 January 2008. We request the IASB to defer this to 1 January 2009. This would in our view be consistent with the policy announced by the IASB in July 2006:

“... the IASB will not require the application of new IFRSs under development or major amendments to existing standards before 1 January 2009.”

In reporting the outcome of its discussion of the proposed IFRIC Interpretation at its October meeting, the IASB “noted that the project was by far the largest that the IFRIC had been asked to undertake and in many ways resembled a Board project”. For this reason, the AASB considers that the 2009 policy of the IASB ought to be applied to this proposed Interpretation.

The IASB policy does state that Interpretations and minor amendments to deal with potential issues identified during implementation would not be subject to this approach. However, this proposed Interpretation does not address mere implementation issues, as acknowledged by the IASB. The substance of the policy is that by refraining from requiring new standards to be applied before 2009, the IASB will be providing four years of stability in the IFRS platform for those companies that adopted IFRSs in 2005. Given

the major impacts that the proposed Interpretation would have upon the financial reporting of many concession operators (and grantors), the promised stability would not eventuate unless this Interpretation is also deferred to 2009.

Furthermore, the International Public Sector Accounting Standards Board (IPSASB) is progressing a project on accounting for service concession arrangements by public sector entities, which is expected to address both operator and grantor accounting. The deferral of the IFRIC Interpretation to 2009 therefore could allow the outcomes of the IPSASB project to be considered in relation to potential amendments of the IFRIC Interpretation prior to its mandatory application. This would be very important to jurisdictions such as Australia in which both private sector and public sector entities apply IFRSs or their domestic equivalent. The AASB has already been requested to develop an Australian Interpretation on the accounting by grantors, given the significant issues arising were the IFRIC Interpretation to be applied to public sector grantors.

Please contact me if further information or clarification is required.

Yours sincerely,

A handwritten signature in cursive script that reads "David Boymal".

David Boymal
Chairman