

## STAFF PAPER

IFRS Interpretations Committee  
Meeting

November 2011

**Project**                      **Payments made by an operator in a service concession arrangement**

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**Introduction**

1. The IFRS Interpretations Committee (the Committee) received a request to address an issue related to payments made by an operator in a service concession arrangement within the scope of *IFRIC 12 Service Concession Arrangements*.
2. Specifically, the submitter requested that the Committee clarify in what circumstances (if any) certain contractual costs to be incurred by the operator under the service concession arrangement should:
  - (a) be recognised at the start of the concession as an asset with an obligation to make the related payments; or
  - (b) be treated as executory in nature, to be recognised over the term of the concession arrangement.

**Explanation of the issue**

3. There are a number of examples of contractual payments that operators are obliged to make in order to fulfil their obligations under service concession arrangements. These include, but are not limited to:
  - a) Payments to the grantor or third parties for the use of tangible assets ('right-of-use payments'); and

- b) Fees payable to the grantor by the operator for the right to operate the concession.
4. Examples of the types of right-of-use payments include:
- (a) Public transport arrangements which involve the operator making payments to third parties for the right to use trains or buses from a third party in order to provide the services required by the concession contract.
  - (b) Arrangements in which the assets (e.g. new rolling stock) are constructed for the contract and financed between the operator and a third party, with the grantor as beneficiary (legally the arrangement is set up in the form of a finance lease). Payments are made by the operator to the third party over the concession term. On completion of the concession term, the remaining obligation to make payments and ultimate ownership pass to the grantor. The concession term is such that if the arrangement was assessed as a lease within the scope of IAS 17 *Leases*, it would be an operating lease from the perspective of the operator.
  - (c) Payments by the operator to the grantor for the right to use the land on which the infrastructure assets are constructed or situated.
5. In addition to the right-of-use payments, fees may be payable by the operator to the grantor over the term of the arrangement for the right to operate the concession. These fees may be fixed or a combination of fixed and variable payments. These can be described as concession fees, development fees or access charges.
6. The assessment of whether payments made by the operator to the grantor are within the scope of IFRIC 12 is important because this may have a direct impact on the question asked by the submitter, that is, whether the payments to be made by the operator described above are treated as executory in nature (i.e. recognised over the term of the concession arrangement) or whether they result in the recognition of an asset (an intangible concession right) and the related liability on a date which precedes the cash payment.

## Staff analysis

7. The submitter provided two papers relating to this issue. In the first paper, the submitter addressed payments for the right-of-use of tangible assets, and then fixed payments for the right to operate the concession. In the second paper, the submitter considered further the payments made by the operator to the grantor for the right to operate the concession when those payments are variable. We think that both papers can be analysed as the following two sub issues:
- (a) **Issue 1** - Payments which give the operator a right of use over a tangible asset (referred to as 'issues relating to leases' by the submitter in Appendix B); and
  - (b) **Issue 2** – Payments, either fixed or variable, which the operator is required to make to the grantor for the service concession ('concession fees').

### ***Issue 1 – Payments for right-of-use of tangible assets***

8. The submission is concerned with whether right-of-use payments made by the operator to the grantor (or a third party) are recognised over the term of the concession or result in the recognition of an asset and related liability at inception.
9. In addressing this issue, we think the key factor is the scope of the relevant IFRSs. If the payments are in the scope of IAS 17 and the lease is classified as an operating lease, then they will be recognised on a straight-line basis. If however the payments are within the scope of IFRIC 12, then they might represent a payment for the license to operate the concession, in which case the asset (concession right) and related liability might need to be recorded at the date that the entity obtains the right at the start of the concession (this concept is considered in more detail later in this paper).

#### *Scope of IFRIC 12 versus IAS 17*

10. IFRIC 4 *Determining whether an arrangement contains a lease* paragraph 4(b) makes it clear that if an arrangement is within the scope of IFRIC 12, it is not in the scope of IFRIC 4 (and hence IAS 17).

11. IFRIC 12 gives guidance on the accounting by operators for public-to-private service concession arrangements. The role of infrastructure in the provision of services in the concession agreement is central to IFRIC 12; the grantor must control or regulate what services the operator must provide with the infrastructure, to whom it must provide them, and at what price and the grantor controls—through ownership, beneficial entitlement or otherwise—any significant residual interest in the infrastructure at the end of the term of the arrangement.
12. IFRIC 12 applies to both:
  - (a) infrastructure that the operator constructs or acquires from a third party for the purpose of the service arrangement; and
  - (b) existing infrastructure to which the grantor gives the operator access for the purpose of the service arrangement.
13. IFRIC 12 paragraph 7 and Information Note 1 provide further guidance on what is within the scope of IFRIC 12. In particular, Information Note 1 indicates that the infrastructure is not recognised as a leased asset if:
  - (a) the infrastructure is constructed or acquired from a third party for the purpose of the service arrangement; or
  - (b) the infrastructure is existing infrastructure of the grantor to which the operator is given access for the purpose of the service arrangement
14. However, IFRIC 12 paragraph AG 7, AG8 and Information note 2 indicate that it is possible to have a lease of assets within the scope of IAS 17 in a broader service concession arrangement if the assets in question are not subject to the scope requirement in paragraph 5(a) of IFRIC 12, ie the assets can be used in an unregulated manner.

*Definition of infrastructure*

15. In determining whether an asset is within the scope of IFRIC 12 (and hence not accounted for under IAS 17), we considered that it would be helpful to reach an understanding of what “infrastructure” is intended to be within the scope of IFRIC 12.

16. However, IFRIC 12 does not define infrastructure. Similarly, no definition is provided in SIC 29 *Service concession arrangements: Disclosures*.
17. The Oxford dictionary of English defines infrastructure as “the basic physical and organizational structures and facilities (e.g. buildings, roads, power supplies) needed for the operation of a society or enterprise.”
18. In addition, paragraph BC 28 of IFRIC 12 provides an explanation of the type of characteristics an asset would have in order to be considered infrastructure within the meaning of IFRIC 12:

In service concession arrangements rights are usually conveyed for a limited period, which is similar to a lease. However, for arrangements within the scope of the Interpretation, the operator’s right is different from that of a lessee: **the grantor retains control over the use to which the infrastructure is put, by controlling or regulating what services the operator must provide, to whom it must provide them, and at what price, as described in paragraph 5(a). The grantor also retains control over any significant residual interest in the infrastructure throughout the period of the arrangement.** Unlike a lessee, the operator does not have a right of use of the underlying asset: rather it has access to operate the infrastructure to provide the public service on behalf of the grantor in accordance with the terms specified in the contract. [emphasis added]

*Possible views on issue 1: Payments for the right-of-use of tangible assets*

19. As explained in paragraph 9 above, we think that the scope of the relevant standards is the key factor in determining whether payments for the right-of-use of tangible assets should be:
  - a) recognised as an asset with an obligation to make the related payments at inception; or

b) recognised on a straight-line basis over the term of the concession arrangement.

20. We have identified three potential views. Each view considers which standard should be applied for right-of-use payments of tangible assets by focusing on the scope of the relevant standards:

(a) **View 1 – IAS 17 should be applied to all payments for the right-of-use of tangible assets:**

Arrangements which give the operator a right of use over a tangible asset in a service concession arrangement are within the scope of IAS 17 because they are not within the scope of IFRIC 12. Paragraph 7 of IFRIC 12 defines the types of infrastructure that are within the scope of IFRIC 12. Proponents of view 1 interpret paragraph 7 in the following way:

- (i) Paragraph 7(a) applies to infrastructure which is *constructed or purchased* by the operator; and
- (ii) Paragraph 7(b) applies to existing infrastructure to which the grantor gives access to the operator *for no consideration*.

Interpreting paragraph 7 in this manner means that an operator’s right-of-use of tangible assets *in exchange for consideration* are not within the scope of IFRIC 12. In addition, IFRIC 12 Information note 2 is clear that an operator can have a lease with the grantor that is within the scope of IAS 17. The consequence of view 1 would be that the right-of-use payments are recognised over the term of the concession arrangement if the lease was considered to be an operating lease.

(b) **View 2 – IAS 17 or IFRIC 12 should be applied depending on the characteristics of the tangible asset:**

Arrangements which give the operator a right-of-use over a tangible asset in a service concession arrangement are within the scope of IFRIC 12 or IAS 17 depending on the characteristics of the asset. Because there is no definition of “infrastructure”, judgement must be applied in determining which assets the interpretation is applied to, e.g. immovable public assets,

for example a toll road or hospital are within scope whereas movable assets such as busses and trains are not. The consequence of view 2 would be:

- a) If the asset that is subject to the right-of-use is considered infrastructure within the scope of IFRIC 12, the arrangement would need to be analysed to determine if an intangible asset (concession right) should be recorded when the operator obtains the concession right and a corresponding liability to make the associated payments for the right-of-use; or
  - b) If the asset that is subject to the right-of-use is not considered infrastructure within the scope of IFRIC 12, then IAS 17 would apply and the right-of-use payments would be recognised on a straight-line basis if the lease was considered to be an operating lease.
- (c) **View 3 – IAS 17 or IFRIC 12 should be applied depending on whether the operator controls the right-of-use related to the tangible asset:**

The rights-of-use that an operator has over a tangible asset in a service concession arrangement should be analysed to determine whether the related rights give the operator control of the asset for a period of time. Regardless of the type of tangible asset (e.g. immovable or movable), the substance of the arrangement needs to be analysed and if the grantor controls the asset, then the asset (infrastructure) and the related payments are in the scope of IFRIC 12. For example, if the grantor is a significant party to the contract and in terms of the contract the asset is in substance used at the direction of the grantor, then it is likely that the arrangement is within the scope of IFRIC 12. The consequence of view 3 would be:

- a) If the operator's rights associated with the right-of-use of tangible assets does not result in the operator having *control* of the related tangible asset, but instead the grantor has control over the tangible asset, then the payments and related rights are

within the scope of IFRIC 12. The payments would need to be analysed to determine if an intangible asset (concession right) should be recorded when the operator obtains control of the concession right; or

- b) If the operator's right for the right-of-use of assets does result in the operator having control of the related tangible asset for a period of time, then the payments and related rights are within the scope of IAS 17. If the lease is classified as an operating lease in accordance with IAS 17, then the right-of-use payments would be recognised on a straight-line basis over the lease term.

21. We think that View 3 is the more appropriate view for the following reasons:

- (a) We disagree with view 1. We think that IFRIC 12 paragraph 7 does not mean that any right-of-use for a tangible asset in exchange for consideration is scoped out of IFRIC 12. In paragraph 7(a) of IFRIC 12, reference to the word "acquires" could be read in the context of a leasing arrangement. Similarly, reference to the word "access" in paragraph 7(b) of IFRIC 12 could mean that the access is provided in exchange for a payment or payments.
- (b) Considering further the arguments for view 1, we think that IFRIC 12 Information Note 2 is intended to apply to situations when the arrangement is outside the scope of IFRIC 12, for example, when:
  - (i) the operator leases an asset from the grantor and has control over the asset, such as those described in IFRIC 12 paragraph AG7 (e.g. private hospital wing); or
  - (ii) the operator enters into a lease agreement with a third party and the grantor is not a party to the contract. However, the operator decides to use the assets in the service concession arrangement at the operator's discretion.
- (c) We disagree with view 2. Although we acknowledge that the lack of a definition of the term "infrastructure" is unhelpful, we do not think that a definition of infrastructure is essential to determine which assets are



within the scope of IFRIC 12 as the determining factor is control rather than the characteristics of the asset. In addition, paragraph BC 28 of IFRIC 12 (see paragraph 18 above) provides the characteristics of assets which would be considered infrastructure from the perspective of an assessment of control rather than from the perspective of the type of asset.

- (d) We think that the operator cannot have a lease if the asset is being used at the direction of the grantor for the service concession arrangement, because the operator does not control the right-of-use over the asset. IFRIC 12 paragraphs BC20 – BC29 explains the Committee’s previous consideration of control and how this impacts which Standard is applicable to the infrastructure. In particular, BC23 states:

**Accordingly, it is only if the arrangement conveys the right to control the use of the underlying asset that reference is made to IAS 17 to determine how such a lease should be classified.** A lease is classified as a finance lease if it transfers substantially all the risks and rewards incidental to ownership. A lease is classified as an operating lease if it does not transfer substantially all the risks and rewards incidental to ownership. [Emphasis added]

When the asset is used at the direction of the grantor, we do not think that the operator would generally control the asset based on the guidance in IFRIC 12 paragraph BC 28 because:

- i) The operator will not have the right to operate the asset in the manner it determines because the grantor retains control over the use to which the infrastructure is put;
- ii) The operator does not have the right to control access to the public infrastructure; and
- iii) The operator cannot control the pricing that it will charge for use of the asset.

22. The staff notes that if lease payments are classified as operating leases under IAS 17, then the accounting treatment will need to change if the Board’s current project on leases ultimately requires all right of use assets to be capitalised. However because the Board’s Leases project is not yet complete and the submitter asked us to consider IFRIC 12 rather than IAS 17, we did not consider this aspect further.
23. Because we think that view 3 in paragraph 20 is the most appropriate treatment, we think the accounting for right-of-use payments within the scope of IFRIC 12 would be consistent with other payments made by the operator for the concession arrangement right. In other words, if the arrangement does not result in a right-of-use of the tangible asset, then this payment is no different from a payment for the right-of-use of the service concession as a whole. The accounting for payments for the concession right is considered further from paragraph 24 onwards.

**Question for the Committee**

1. Does the Committee agree that the right-of-use of a tangible asset within the context of a service concession arrangement should be analysed to determine if the operator has **control** of the related asset to determine if IAS 17 or IFRIC 12 should be applied (view 3 from paragraph 20)?

***Issue 2 – Payments for the concession arrangement right***

24. As explained in paragraph 7 to this paper, issue 2 deals with payments, which can be either fixed or variable, which the operator is contractually required to make to the grantor for the right to operate the service concession (‘concession fees’).
25. The question raised by the submitter is whether concession fees should be accounted for either:
- (a) As executory, ie recorded in the financial statements only when the relevant payment becomes due; or

- (b) As an obligation on ‘day 1’ with a related intangible asset (concession right) recognised when the operator obtains control of the concession right

*Previous decisions of the Interpretations Committee IFRIC*

26. A similar issue was brought to the Committee in May 2009 (see appendix C). The view in the staff paper at that time was that a minimum contractually agreed amount is consideration in return for the service concession asset (Refer to Appendix C paragraph 15).
27. We think that the consequence of the staff view in the May 2009 staff paper is that minimum contractually agreed amounts would be capitalised as part of the cost of an intangible concession asset when the concession asset is initially recognised by the entity.
28. In the July 2009 IFRIC Update the IFRIC did not take the issue onto its agenda for the following reason:

Given the guidance in IFRSs, the IFRIC concluded that any guidance it could provide would be in the nature of implementation guidance rather than an interpretation. The IFRIC therefore decided not to add the issues to its agenda.

*Possible views on issue 2: Contractual payments (fixed or variable) for the right of use of the concession*

29. We think that there are four possible views in accounting for concession fees:
- (a) **View 1 – Concession fees should be treated as annual license fees:**

The concession fees are no different to royalty or franchise payments for a right of use for an intangible asset. The right granted here is akin to a franchise license and should be recorded in a similar manner, ie as incurred. Whether the license fee is fixed or variable should not impact the accounting treatment. Although IFRIC 12 paragraph 17 refers to the

guidance in IAS 38 *Intangible assets* for the concession right, this is only relevant when the intangible is recognised over time as a consequence of construction or upgrade services because this paragraph is written under the heading of ‘Construction or upgrade services’. Therefore the intangible model in IFRIC 12 does not apply to *payments* for the concession right. Under this view, the concession fee payments would be treated as executory.

(b) **View 2 – Concession fees should be treated as consideration for an intangible asset:**

Concession fees with minimum contractual payments should be capitalised and the related liability recorded when the operator obtains control of the right. However, variable payments based on, for example, revenue or profit share are akin to contingent consideration payments for the acquisition of an intangible asset. We note that the Committee currently has an outstanding issue relating to contingent consideration payments for the acquisition of tangible and intangible assets (Refer to the May IFRIC Update). The treatment of the variable portion of any payment for the concession asset should be consistent with the Committee’s conclusion on this outstanding issue.

(c) **View 3 – Concession fees should be presented as contra-revenue:**

Concession fees should be netted against the total consideration received from customers of the public services. IFRIC 12 paragraph BC 13 explains that the IFRIC decided that the Interpretation could provide references to relevant standards that apply to arrangements outside of the scope of the Interpretation. To determine if the concession fees should be recorded net of the related service concession revenue, IAS 18 *Revenue* paragraph IE 21 provides the relevant gross versus net guidance in the form of indicators. One of these indicators is the power to determine selling price and because the operator has limited or no discretion in setting prices, the operator is in substance acting as an agent on behalf of the grantor. Therefore regardless of whether the concession fee is fixed or

variable, the amount paid to the grantor should be accounted for as a reduction of revenue when the related revenue is recognised.

(d) **View 4 – Concession fees treatment depends on the underlying asset as intangible or tangible:**

Concession fees that are linked to the right-of-use of a tangible asset meet the definition of an intangible asset. However, concession fees that do not give a right to an identifiable asset are akin to a form of tax and are not intangible assets. Therefore the accounting for concession fees depends on what the payment is for:

- (i) If the payment is linked to the right of use of a tangible asset, then view 2 would be followed as there is an identifiable benefit. An entity should capitalise the right-of-use asset and recognise the related obligation to make payments if the payments are fixed. If the payments are variable then the treatment would depend on the outcome of the related IFRIC outstanding issue on contingent payments (as explained in paragraph 29(b));
- (ii) If the payment is not linked to the right-of-use of a tangible asset, then concession fees should be recognised as period costs when they are incurred. The concession fees do not represent part of the acquisition cost of an intangible asset. They do not provide any additional rights to the operator, particularly when construction services have already been provided as part of the arrangement. The concession fees are akin to a tax that the operator must pay in order to operate the concession.

30. We think that View 2 is the more appropriate view for the following reasons:

- (a) We disagree with View 1. Although we agree that concession fees are no different to royalty or franchise payments for the right of use of an intangible asset, we think that the license fee being fixed or variable is relevant. We think a *fixed* contractual minimum payment over time for the right of use of an intangible asset is no different to deferred payment terms. In addition this conclusion appears to be consistent with the

previous staff position as explained in paragraph 23. In most cases royalty payments are variable (e.g. based on sales, output or net profit). We think that variable royalty payments and their interaction with variable concession fees should be considered further when the Committee considers the issue of contingent pricing of property, plant and equipment and intangible assets (as explained in paragraph 29(b) above).

- (b) We do not agree with the second argument in View 1. Although IFRIC 12 paragraph 17 is written in the context of construction or upgrade services, we think the principle in that paragraph can also apply to concession rights paid for by the operator with cash rather than the operator's services. Under IFRIC 12's intangible asset model, the intangible asset is recognised over the period in which the construction services are provided because it is the satisfaction of the performance obligation over time which provides the operator with the concession right. If the operator obtains the concession right through payment rather than service, this impacts the timing of recognition and type of consideration provided by the operator to obtain the concession asset, but it does not alter the fact that the operator has obtained an intangible asset.
- (c) We do not think that view 3 is appropriate. The payments made to the grantor should not be recognised as a reduction of revenue for the following reasons:
  - (i) When the payments are fixed, this is not a revenue sharing arrangement and there is no clear link between the revenue earned by the operator and the payment made to the grantor. In other words, the operator cannot be paying over a portion of the revenue to the grantor because the payment is unrelated to the revenue if the payment is fixed.
  - (ii) If the payments are variable and based on a revenue or profit sharing arrangement:
    - (a) We agree that concession arrangements limit operators' latitude in establishing prices. However, when

considering the other relevant criteria in IAS 18 paragraph IE 21, we think that the fact that the operator has the primary responsibility for providing the services is the more relevant criterion in this case.

- (b) In most service concession arrangements, the percentage that the operator retains is significant in relation to the overall consideration collected from users of the infrastructure, analogous to a franchisee's royalty payment. We think that this indicates that the operator is acting as principal rather than agent.
- (iii) In many service concession arrangements, the operator is exposed to the demand risk of the users of the infrastructure because the operator has incurred costs to construct the infrastructure. Therefore unlike a 'normal' agent principal relationship, the operator has significant risk in delivering the services.
- (d) We think View 4 is not appropriate because the concession fees are not akin to taxes or similar type payments to the government (eg. levies to operate within an industry). The payment of the concession fee is contractual, unlike a tax or a levy. There is an implicit assumption in a contractual relationship that the exchange is arm's length, ie the operator must be receiving something of equal value for the payment that they are expected to make, otherwise they would not enter into the contract.
- (e) We acknowledge that the issue of 'contingent consideration in exchange for an asset outside of a business combination' is a complex issue. However, the Committee is currently considering this issue as explained in paragraph 29(b). We think that a principle for determining the accounting of 'contingent consideration in exchange for an asset outside of a business combination' would be preferable to developing specific guidance for these types of payments in a service concession arrangement. We note that the submitter believes these types of variable payments are different from the contingent pricing arrangements previously considered because:

‘...in a service concession arrangement falling within the scope of IFRIC 12, unlike in a contingent pricing arrangement, the recipient of the variable payment controls or regulates the activities of the payer.’

We do not agree that the two issues should be considered independently of each other. In both cases, the ultimate consideration paid for an asset is variable. We think that it would be more useful to develop a principle for variable payments to acquire assets (both tangible and intangible) outside of a business combination, than address these issues separately. It may be that during the development of this principle, the nature of the variable payments influences the accounting as the submitter suggests.

**Question for the Committee**

2. Does the Committee agree that for the fixed contractual amounts, payable by the operator to the grantor, for either a right-of-use to infrastructure or a right to the concession arrangement, the operator should recognise an asset and corresponding liability when the operator obtains control of the related assets? (view 2 in paragraph 27(b))?

*IFRIC 12 financial asset and intangible asset model*

31. Assuming that view 2 in paragraph 29(b) is the more appropriate accounting treatment for concession fees, we considered if the treatment under view 2 would change if the operator, in addition to paying for the right to operate the concession, also recognised a financial or intangible asset as part of the consideration for construction or upgrade services provided to the grantor.
32. We do not think that the recognition of a financial asset or intangible asset for construction or upgrade services should affect the recognition treatment proposed in view 2 for the concession fees because:
  - (a) The recognition of a financial asset or intangible asset for construction or upgrade services (‘services’) is a result of the consideration provided by the grantor to the operator for the services transaction; whereas



- (b) The recognition of any liability and related intangible asset in respect of the concession fees is a result of the consideration provided by the operator to the grantor for the right to operate the concession.

Therefore, the two transactions are mutually exclusive.

- 33. We think the implications, if both construction or upgrade services are provided and concession fees are incurred, will be:
  - (a) If a financial asset is recognised for the services, the operator will recognise a financial asset for the services and an intangible asset for the concession right. Whether the financial asset for the services can be offset against any liability recognised for the concession right will be determined based on IAS 32 *Financial Instruments: Presentation*.
  - (b) If an intangible asset is recognised for the services, whether any intangible asset recognised for the concession fees can be presented as an addition to the intangible asset recognised for the construction services, or whether a second intangible asset should be recognised and accounted for separately. We think IAS 38 *Intangible assets* would need to be considered to determine this.

*Potential implication of future Board projects*

- 34. As explained in paragraph 29(b), we think that the issue of variable payments for a concession right is analogous to the current outstanding IFRIC submission on variable consideration for items of PP&E (last discussed at May 2011 IFRIC meeting). This issue is on hold pending the Board's conclusion on the leasing project.
- 35. Consistent with the logic for delaying a final decision on the issue of variable pricing for PP&E and intangible assets, this issue should likewise be delayed if view 2 in paragraph 29(b) is the most appropriate view. We think the issues are similar in principle and the outcome of the leasing project is equally relevant to this issue.

36. Based on the latest version of the Revenue Recognition discussions, we do not anticipate a change in the guidance for determining agent-principal relationships. If however the revised guidance on this aspect of revenue recognition changes, the conclusion relating to view 3 in paragraph 27(c) will need to be revisited.

**Outreach conducted**

37. The staff sent out a request for information to the National Standard Setters Group in order to help assess the Committee’s agenda criteria. Specifically, we asked:

- (a) *What is the prevalence of this issue in practice in your experience? This is, how common or widespread are service concession arrangements that involve payments to be made by the operator (as described by the submitter) within your organisation’s jurisdiction of influence?*
- (b) *What diversity in accounting for such transactions do you see in practice, specifically relating to the issues described by the submitter?*

38. An additional question asked to the National Standard Setters Group where the issue was common in their relevant territory was:

*Is there any clear preference by reporting entities regarding the accounting for payments (as described by the submitter) to be made by the operator? In other words, do entities apply an ‘executory contract’ principle, do they recognise an asset and liability at contract inception or does it depend on the nature of the related future payment?*

39. The views expressed below are informal feedback from the National Standard Setters. They do not reflect the formal views of the Boards of those organisations. The geographic breakdown for the responses is as follows:

<b>Geographic area</b>	<b>Number of respondents</b>
Central/South America	1
Africa	1
Asia/Oceania	5
Europe	4

North America	1
<b>Total respondents</b>	<b>12</b>

40. Approximately half of the respondents stated that the issue, ie payments from operators to grantors in service concession arrangements, was prevalent in their relevant jurisdiction.
41. Of the respondents who stated that the issue was prevalent, the responses were mixed with respect to whether there was diversity in practice within the jurisdiction.
42. With respect to the additional question asked as to current practice in those jurisdictions where the issue was prevalent, the responses were mixed with respect to the accounting for the fixed payments. With respect to the variable payments, all of the responses indicated that an executory type of accounting was being applied to the payments, presented either as an expense or contra-revenue when the amount became payable.
43. Based on the results of our Outreach, we think it is likely that for jurisdictions where the issue is prevalent, there is diversity in practice in the accounting for payments from an operator to a grantor in a service concession arrangement.

## Assessment against annual improvement and agenda criteria

### *Assessment against annual improvement criteria*

44. We have assessed a potential amendment to IFRIC 12 against the annual improvements criteria to clarify the accounting for fixed contractual payments required to be made by the operator to the grantor, which are reproduced in full below:

*In planning whether an issue should be addressed by amending IFRSs within the annual improvements project, the IASB assesses the issue against the following criteria. All criteria (a)–(d) must be met to qualify for inclusion in annual improvements.*

- (a) *The proposed amendment has one or both of the following characteristics:*
  - (i) *clarifying—the proposed amendment would improve IFRSs by:*
    - *clarifying unclear wording in existing IFRSs, or providing guidance where an absence of guidance is causing concern.*

- *A clarifying amendment maintains consistency with the existing principles within the applicable IFRSs. It does not propose a new principle, or a change to an existing principle.*

(ii) *correcting—the proposed amendment would improve IFRSs by:*

- *resolving a conflict between existing requirements of IFRSs and providing a straightforward rationale for which existing requirement should be applied, or,*
- *addressing an oversight or relatively minor unintended consequence of the existing requirements of IFRSs.*

*A correcting amendment does not propose a new principle or a change to an existing principle.*

[Staff analysis—this criterion is partially satisfied.]

It is satisfied for the proposed amendment to clarify the **scope** of IFRIC 12 with respect to operator payments for access to tangible assets related to concession arrangements. The proposed amendment maintains consistency with the existing principles in IFRIC 12 as evidenced by the basis of conclusion (paragraph BC28 of IFRIC 12).

However, the proposed amendment to include guidance on how to account for fixed payments made by the operator to the grantor would be more than a clarification or correction. We have therefore assessed these proposed amendments as part of the agenda criteria assessment in paragraph 45 below.

(b) *The proposed amendment is well-defined and sufficiently narrow in scope such that the consequences of the proposed change have been considered.*

[Staff analysis— this criterion is satisfied. The issue is sufficiently narrow in scope to ensure that the proposed change has been considered sufficiently and identified.]

(c) *It is probable that the IASB will reach conclusion on the issue on a timely basis. Inability to reach a conclusion on a timely basis may indicate that the cause of the issue is more fundamental than can be resolved within annual improvements.*

[Staff analysis—this criterion is satisfied. We think that the Committee will be able to address these issues on a timely basis and we think that the Board should be in a position to also reach a conclusion on a timely basis.]

- (d) *If the proposed amendment would amend IFRSs that are the subject of a current or planned IASB project, there must be a need to make the amendment sooner than the project would.*

[Staff analysis—this criterion is satisfied. There is no current IASB project on IAS 38 or IFRIC 12.]

### *Agenda criteria assessment*

45. The staff's preliminary assessment of the agenda criteria is as follows:

- (a) *Is the issue widespread and practical?*

Yes, the issue has been identified as widespread and practical in several jurisdictions.

- (b) *Does the issue involve significantly divergent interpretations (either emerging or already existing in practice)?*

As the submission indicates, there are divergent interpretations. In addition, several respondents suggested that the frequency of these types of arrangements (where the operator is required to pay the grantor for the concession right) might increase in the future.

- (c) *Would financial reporting be improved through elimination of the diversity?*

Yes.

- (d) *Is the issue sufficiently narrow in scope to be capable of interpretation within the confines of IFRSs and the Framework for the Preparation and Presentation of Financial Statements, but not so narrow that it is inefficient to apply the interpretation process?*

Yes. We think that the issue is a natural extension of the previous work that the Committee performed when it undertook IFRIC 12 initially.

- (e) *If the issue relates to a current or planned IASB project, is there a pressing need for guidance sooner than would be expected from the IASB project? (The IFRIC will not add an item to its agenda if an IASB project is expected to resolve the issue in a shorter period than the IFRIC would require to complete its due process.)*

There are no planned or current IASB projects that the issue of fixed payments relates to. However, with respect to variable payments, we think that the issue is linked to the Board's current deliberations on contingent payments for right-of-use assets in the Board's project to replace IAS 17 *Leases*.

46. Based on the assessment against the Annual Improvement criteria, we think that the proposed amendment goes beyond and annual improvement. However, we think that the proposed amendment does meet the agenda criteria and the issue should therefore be addressed as a separate exposure draft to amend IFRIC 12.

### **Staff recommendation**

47. In response to the questions raised by the submitter and the results of the Outreach, we propose the following:
- (a) We think the Committee should make an amendment to IFRIC 12 to clarify the accounting for fixed contractual payments required by the operator to the grantor as follows:
- (i) for fixed payments linked to the use of a tangible asset, we think IFRIC 12 should be clarified to explain that the key factor in determining if the asset is infrastructure in the scope of IFRIC 12 is control of the asset. If the asset is infrastructure in the scope of IFRIC 12, then the fixed contractual payments should be recognised as a liability with a corresponding asset when the operator has access to the infrastructure.
  - (ii) for fixed contractual payments required by the operator to the grantor in a service concession arrangement, this would result in the recognition of an asset and corresponding liability at the point in time when the operator obtains control of the service concession right.

In coming to these recommendations, we think it is useful to note that the Committee acknowledged in paragraphs BC 12 and BC 13 in IFRIC 12, that further work might be required once the Interpretation was effective:

BC 12 Commentators on the draft Interpretations argued that the proposals ignored many arrangements that were found in practice, **in particular, when the infrastructure was leased to the operator** or, conversely, when it was held as the property, plant and equipment of the operator before the start of the service arrangement.[emphasis added]

BC 13 In considering these comments, the IFRIC decided that the scope of the project should not be expanded because it already included the arrangements most in need of interpretative guidance and expansion would have significantly delayed the Interpretation. The scope of the project was considered at length during the initial stage, as indicated above. The IFRIC confirmed its view that the proposed Interpretation should address the issues set out in paragraph 10. Nonetheless, during its redeliberation the IFRIC considered the range of typical arrangements for private sector participation in the provision of public services, including some that were outside the scope of the proposed Interpretation. The IFRIC decided that the Interpretation could provide references to relevant standards that apply to arrangements outside the scope of the Interpretation without giving guidance on their application. If experience showed that such guidance was needed, a separate project could be undertaken at a later date. Information Note 2 contains a table of references to relevant standards for the types of arrangements considered by the IFRIC.

- (b) We think the Committee should consider the issue of variable payments, made by an operator to a grantor under a service concession arrangement, when it revisits the discussions on contingent pricing of property, plant and equipment and intangible assets.

**Questions for the Committee**

3. Does the Committee agree that IFRIC 12 should be amended to clarify the accounting for fixed contractual amounts, payable by the operator to the grantor, by recognising an asset and corresponding obligation at the date the operator obtains control of the related asset?

4. If the Committee agrees that IFRIC 12 should be clarified, does the Committee agree with our proposed wording in Appendix A?

5. Does the Committee agree that the issue of variable contractual amounts, payable by the operator to the grantor, should be considered when the Committee redeliberates the issue of contingent pricing of PP&E and intangible assets?



## Appendix A—proposed changes

A1. The proposed amendment to IFRIC 12 is presented below.

### **Amendment to IFRIC 12 *Service Concession Arrangements***

Paragraphs 10 and 27 are amended as follows (new text is underlined>) and paragraphs 7A and 27A are added. Paragraph 7 is not proposed for amendment but is included here for ease of reference:

- 7 This Interpretation applies to both:
- a) infrastructure that the operator constructs or acquires from a third party for the purpose of the service arrangement; and
  - b) existing infrastructure to which the grantor gives the operator access for the purpose of the service arrangement.
- 7A If the operator is given access to assets (either directly or indirectly via third party arrangements involving the grantor) in exchange for payments, the operator shall assess whether the assets provided are infrastructure within the scope of this Interpretation. The following factors indicate that the assets are infrastructure within the scope of this Interpretation:
- a) the grantor retains control over the use to which the asset is put, by controlling or regulating what services the operator must provide, to whom it must provide them, and at what price, as described in paragraph 5(a);
  - b) the grantor retains control over any significant residual interest in the asset at the end of the period of the arrangement; and
  - c) the operator does not have a right of use of the underlying asset but rather access to operate the infrastructure to provide the public service on behalf of the grantor in accordance with the terms specified in the contract.
- 10 This Interpretation sets out general principles on recognising and measuring the obligations and related rights in service concession arrangements. Requirements for disclosing information about service concession arrangements are in SIC-29. The issues addressed in this Interpretation are:
- (a) treatment of the operator’s rights over the infrastructure;;
  - ...
  - (f) subsequent accounting treatment of a financial asset and an intangible asset; ~~and~~

- (g) items provided to the operator by the grantor. and  
 (h) payments made by the operator to the grantor.

27 In accordance with paragraph 11, infrastructure items to which the operator is given access by the grantor for the purposes of the service arrangement are not recognised as property, plant and equipment of the operator. If the grantor provides the operator access to the infrastructure and the operator is required to make payments to the grantor in exchange for this access, the operator shall account for these payments in accordance with paragraph 27A of this Interpretation. The grantor may also provide other items to the operator that the operator can keep or deal with as it wishes. If such assets form part of the consideration payable by the grantor for the services, they are not government grants as defined in IAS 20. They are recognised as assets of the operator, measured at fair value on initial recognition. The operator shall recognise a liability in respect of unfulfilled obligations it has assumed in exchange for the assets.

**Payments made by the operator to the grantor**

27A As part of the service concession arrangement, the operator may be required to make payments to the grantor. These payments may, for example, be in exchange for infrastructure provided by the grantor as explained in paragraph 27, or the payments may represent consideration paid by the operator to the grantor in exchange for the right to operate the concession arrangement. If there is a minimum contractually fixed amount that the operator is required to pay to the grantor, then the operator shall recognise a liability and related asset ('concession asset') for this amount. The operator shall account for the concession asset in accordance with IAS 38 *Intangible assets*.

**Basis for Conclusions on proposed amendments to IFRIC 12 *Service Concession Arrangements***

This Basis for Conclusions accompanies, but is not part of, the proposed amendments.

**Payments made by the operator to the grantor**

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BC1 The Committee was made aware of diversity in practice relating to payments made by the operator to the grantor in a service concession arrangement. In particular, the diversity in practice arose in situations where:

- a) the operator is given access to tangible assets (either directly or indirectly via third party arrangements involving the grantor) in exchange for payments; and
- b) the operator is required to make payments (either fixed or variable) to the grantor in exchange for the right to operate the concession arrangement.

Some entities were treating these payments as executory in nature (period costs) while others were recognising an asset and corresponding liability when the operator was given access to the assets or rights.

BC2 The Committee proposes to deal with the diversity in practice as follows:

- a) for payments made by the operator for access to tangible assets, the Committee proposes clarifying the scope of IFRIC 12. The scope clarification would require entities to consider whether the operator controls the asset to which it is given access. In making this determination, the Committee noted its previous considerations (contained in paragraph BC 28 of IFRIC 12) of the factors that indicate that an asset is infrastructure within the scope of IFRS 12.
- b) for fixed payments that give the operator access to tangible assets within the scope of IFRIC 12, or for fixed payments that the grantor is required to make for the right to operate the concession, the Committee proposes amending IFRIC 12. The amendment would clarify that these types of payments represent consideration for an intangible asset. The Committee thinks that a fixed contractual minimum payment over time for the right of use of infrastructure or the right to operate the concession is no different to deferred payment terms for any intangible asset. Therefore in these circumstances, the Committee proposes that the accounting should be consistent with IAS 38 *Intangible Assets*.
- c) for variable payments that give the operator access to tangible assets within the scope of IFRIC 12, or for variable payments that the grantor is required to make for the right to operate the concession, the Committee proposes to consider these types of payments once it has concluded its deliberations on its current project to revise IAS 17 *Leases*. The Committee thinks that contingent payments for a right-of-use lease asset are analogous to contingent payments for the types of intangible assets in a service concession described above. In addition, the Committee believes that there is limited diversity in practice relating to the types of variable payments described above as entities are treating these payments as executory in nature, ie recognising them in the period in which they are paid.

## Appendix B—Submissions

### Submission 1

#### **Treatment of certain fixed contractual payments made during service concession arrangements**

[Submitter] request the IFRS Interpretations Committee to address the following issue with respect to the application of IFRIC 12 *Service Concession Arrangements*

#### **The issue:**

There are a number of examples of fixed payments that operators are obliged to make in order to fulfil their obligations under service concession arrangements. These include, but are not limited to:

- 1 Issues relating to leases:
  - a. Lease payments for assets used in order to provide the services required by the contract, such as trains or buses
  - b. Lease payments for land on which infrastructure assets are constructed
- 2 Fees payable to the Grantor over the term of the arrangement for the right to operate the concession, which may be fixed or a combination of fixed and variable payments. These can be described as *inter alia* concession fees, development fees or access charges.

In this submission we focus on the fixed payments. They may also include variable elements but these are addressed in a separate submission.

We are asking the Interpretations Committee if they can clarify in what circumstances the entity should recognise an asset in respect of the costs to be incurred under the arrangement together with an obligation to make the payments or whether the payments are executory in nature, to be recognised over the term of the service concession arrangement.

#### **1 Issues relating to leases**

##### ***(a) leases of moveable assets - payments for assets used in a concession that are leased from a third party***

Some public transport arrangements involve the operator leasing trains or buses from a third party in order to provide the services required by the contract. Generally, ‘infrastructure’ is interpreted broadly and, on this basis, it is accepted that ‘the infrastructure’ used to provide services can include moveable assets.<sup>1</sup>

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<sup>1</sup> Although IFRIC 12 uses the word “infrastructure”, the Interpretation is based on the definition of an asset under IFRS (“An asset is a resource controlled by the entity as a result of past events and from which future economic benefits are expected to flow to the entity”, §49 of the FW) and is therefore considered to apply to all assets, including rolling stock, and not only tunnels and bridges.

There are arrangements in which the assets (e.g. new rolling stock) are constructed for the contract and financed via a lease entered into between the operator and a third party lessor, with the grantor as beneficiary. Payments are made to the lessor over the lease term. Ownership passes to the grantor at the end of the contract. The concession term is such that the lease assessed on a stand-alone basis would be an operating lease.

Assets within scope of IFRIC 12 include infrastructure that the operator constructs or acquires from a third party for the purpose of the service arrangement and existing infrastructure to which the grantor gives the operator access for the purpose of the service arrangement (IFRIC 12 paragraph 7). IFRIC 12 paragraph 11 states that infrastructure within scope of the arrangement cannot be property, plant and equipment of the operator because the contractual service arrangement does not convey the right to control the use of the public service infrastructure to the operator. Instead the operator has a right of access to the infrastructure in order to provide the services. Control of the infrastructure by the grantor is evidenced by control over the use to which the infrastructure is put and control of any residual interest in the infrastructure (IFRIC 12 AG 1).

IFRIC 12 contains no explicit guidance regarding assets leased from the grantor or leased on terms in which the leased asset is controlled by the grantor. At issue is whether the entity ought to account for the net present value of the lease payments under the lease agreement as part of its infrastructure asset at inception of the contract, recognising at the same time a liability to make those payments.

#### **View 1**

Some argue that assets leased under an operating lease are not 'infrastructure that the operator constructs or acquires from a third party for the purpose of the service arrangement'. Absent the accounting requirements of IFRIC 12, the assets in question could not be property, plant and equipment of the operator. They are therefore outside the scope of IFRIC 12. The operator has a right of use over the assets and costs should be dealt with in accordance with IAS 17.

#### **View 2**

Others note that the assets are controlled by the grantor. The operator does not have any 'right of use' or control of the assets and has a right of access no different to that over assets that it has constructed or acquired for the contract. The substance of the arrangement is similar to that in which the operator pays the grantor and the grantor, in turn, pays the lessor. It is not relevant that the arrangement might have been classified as an operating lease. Infrastructure accounted for under IFRIC 12 is distinct from the physical underlying assets and the measurement rules are those that apply in the interpretation. Payments to the lessor should be treated as the cost of acquiring part of the infrastructure asset, measured at the present value of the 'lease' payments, with a corresponding financial liability. If the costs are accrued when incurred, there are two arguments as to how they should be accounted for under IFRIC 12:

**View 2A:** the costs should be reflected in the value of the construction services provided to the grantor.

**View 2B:** the costs comprise a separate intangible asset, whatever model applies.

In support of view 2, it is noted that IFRIC 12 applies a 'holistic' approach to the infrastructure asset. For example, where parts of the infrastructure are replaced (e.g. the top layer of a road or the roof of a building), the item of infrastructure is considered as a whole (Application Guidance to IFRIC 12, paragraph AG6). From this perspective, the accrued lease costs comprise part of the infrastructure asset and the costs should be treated as part of the costs of construction services.

Proponents of View 2 consider that as IFRIC 12 is not explicit on the treatment of these assets and liabilities, it is appropriate to treat them as separate intangible assets.

### ***(b) Leases of land on which infrastructure is constructed***

It is common as part of service concession arrangements for the operator to lease from the grantor the land on which infrastructure is constructed and make separate payments to the grantor for the lease. In these cases the land is not 'the infrastructure' but similar arguments to those outlined above apply to accounting for the costs.

Some argue that this is an operating lease, separate from the service concession, that should be accounted for under IAS 17.

Others consider that the lease costs of land are a cost of gaining access to the infrastructure; therefore they are one of the costs to be taken into account in calculating the fair value of services provided to the grantor under the service concession agreement. The present value should be calculated at inception of the agreement and a liability recognised for the obligation to make payments.

Although in principle there could be a third position, similar to borrowing costs in which the lease costs are part of the cost of the asset during the construction phase but are thereafter operating costs, this has not been encountered in practice.

If the costs are accrued when incurred, the issues relating to their treatment are the same as in views 2A and 2B above, respectively. The costs should be reflected in the value of the construction services provided to the grantor or the costs comprise a separate intangible asset, whatever model applies.

## **2 Fees payable to the Grantor during the term of the arrangement for the right to operate the concession**

These 'fees' are described in a number of different ways, including concession fees, development fees and access charges. Entities are obliged to pay these sums as conditions of the service concession. They include fixed monetary amounts that are usually, but not always, payable in instalments over the contract term. It is a feature of these payments that they cannot be avoided except by breaching the contract. They differ from the lease payments described above in that they could not be construed as payments that convey a right of use or right of access to specific assets.

It is argued by some that the operator should recognise the concession fee as an expense during the term of the concession as these are akin to payments for a licence. Although it is sometimes suggested that payments for licences ought to be accrued and an intangible asset recognised, this is not generally accepted and practice is known to vary. The concession is an executory arrangement.

Alternatively, the liability for future payments would be seen as consideration for the right to charge users of the concession infrastructure. IFRIC 12 paragraph 18 states that the operator must recognise an intangible asset to the extent that it receives a right (a licence) to charge users of the public service. Therefore, these payments should be accrued as part of the cost of an intangible asset.

**Current practice:**

Current practice is mixed. However, the issues are being raised in particular by entities and practitioners in countries that have recently adopted IFRS or are in the process of doing so, particularly from Brazil and other countries in South America and India.

**Reasons for the IFRS Interpretations Committee to address the issue:**

*(a) The issue is widespread and has practical relevance*

The issue is relevant to all operators of service concession arrangements.

*(b) The issue indicates that there are significantly divergent interpretations (either emerging or already existing in practice).*

Divergence in practice is likely to exist already and this will increase as time passes unless the treatment is clarified.

*(c) Would financial reporting be improved through the elimination of the diversity?*

Yes, financial reporting would be improved if there were clarity about the appropriate treatment of these payments.

*(d) Is the issue a narrow implementation or application issue that can be resolved using existing IFRSs?*

We consider that these issues can be resolved using existing IFRSs

*(e) If the issue is related to a current or planned IASB project, is there a pressing need for guidance sooner than would be expected from the IASB project?*

We are unaware of any current or planned IASB project that will address this issue.

**Submitted by**

**[Submitter]**

## **Submission 2**

### **Treatment of certain variable contractual payments made during service concession arrangements**

[Submitter] request the IFRS Interpretations Committee to address the following issue with respect to the application of IFRIC 12 *Service Concession Arrangements*.

Please note that the issue is different to the recent discussion on contingent pricing considered by the Interpretations Committee, because, in a service concession arrangement falling within the scope of IFRIC 12, unlike in a contingent pricing arrangement, the recipient of the variable payment controls or regulates the activities of the payer.

#### **The issue:**

There are many variable payment terms and it is unlikely that all will fall to be treated in the same way. However, the types of arrangement typically are based on a percentage of revenue or profit measure or vary with usage of the infrastructure. For example,

- ▶ a concession operator of a toll road might be required by an arrangement that falls within the scope of IFRIC 12 to pay an amount equal to x% of total tolls collected to the grantor each year; or
- ▶ A service concession arrangement over a light rail system could include a 'revenue sharing' mechanism where a certain percentage of profits above a certain level are split in a predetermined ration between operator and grantor; the ratio may change as profits increase or may change over time.

Three main accounting treatments have been considered:

- View 1) Payments made by the operator are treated as the purchase of additional goods and services and are recognised as an expense in the periods in which they arise.
- View 2) The payments represent additional consideration for the licence to operate (assuming the intangible asset model is applied), in which case, the operator recognise a financial liability for the amounts it expects to repay to the grantor. If this view applies, the treatment of variations from the original estimate and the unwinding of the discount need to be considered. Are they always taken to profit or loss or are there circumstances in which it is appropriate to adjust the carrying amount of the asset?
- View 3) Recognise these payments as a reduction of revenues in the period they are made.

View 1 treats the variable payments in an analogous manner to contingent rentals payable under IAS 17. These additional payments relate to the substance of the contractual arrangement but can be treated as executory until incurred. This treatment is also similar to that applied in many royalty arrangements.

By contrast, View 2 would require an entity to estimate an asset and liability at contract inception in respect of payments that are usually considered executory. It could lead to inconsistent treatment in practice. A contract could be structured



such that the payment for services received by the operator was net of the grantor's share, in which case there might be no recognition of an asset and liability while an economically identical contract would require the operator to make payments to the grantor.

It is argued that View 3 reflects the substance of the arrangement, which is that, by setting the level of fees payable, the grantor effectively regulates the price the operator is entitled to collect for the provision of the public services. Therefore, net presentation of revenue is appropriate. The argument against net presentation is that operators frequently have a degree of latitude in setting revenue and these payments are more in the nature of costs incurred by the operator.

View 3 may also apply particularly in certain types of arrangement. In some tolling contracts, arrangements allow the operator to retain only a portion of each toll collected from users of the infrastructure. The additional amount is of the nature of a tax levied on users. The amounts payable to the grantor are collected from users on behalf of the grantor and IAS 18 paragraph 8 and IE paragraph 21 considered to determine whether revenue is recorded gross or net.

**Current practice:**

It is likely that there is little divergence in practice. These contingent payments are generally recognised as expenses in the periods in which they arise. However, the issue is being raised in particular by entities and practitioners in countries that have recently adopted IFRS or are in the process of doing so, particularly from Brazil and other countries in South America and India.

**Reasons for the IFRS Interpretations Committee to address the issue:**

*(a) The issue is widespread and has practical relevance*

The issue is relevant to all operators of service concession arrangements.

*(b) The issue indicates that there are significantly divergent interpretations (either emerging or already existing in practice).*

While there is currently little divergence, this is likely to change over time if the issue is not clarified.

*(c) Would financial reporting be improved through the elimination of the diversity?*

Yes

*(d) Is the issue a narrow implementation or application issue that can be resolved using existing IFRSs?*

We consider that these issues can be resolved using existing IFRSs

*(e) If the issue is related to a current or planned IASB project, is there a pressing need for guidance sooner than would be expected from the IASB project?*

We are unaware of any current or planned IASB project that will directly address this issue. However, there are some similarities to contingent pricing arrangements recently discussed by the Interpretations Committee.

**Submitted by**

**[Submitter]**

## Appendix C—Extract of May 2009 IFRIC staff paper

### ***Second submission***

7. The second submission describes a concession agreement that requires the operator to maintain and replace the infrastructure that is to be returned to the grantor at the end of the concession period. In addition, the terms of the concession agreement also include an obligation for the operator to share revenue from the services with the grantor in addition to a fixed minimum amount that is payable annually.
8. The submission asks the IFRIC for guidance on applying IFRIC 12 to the minimum payment, the revenue sharing requirements and the replacement and maintenance costs. It states that the Interpretation does not provide guidance on accounting for costs other than the infrastructure.

### **Staff analysis**

...

### ***Second submission***

12. The staff notes that in the Basis for Conclusions on IFRIC 12, the IFRIC states that:

It also decided to specify the accounting treatment only for infrastructure that the operator constructed or acquired from a third party, or to which it was given access by the grantor, for the purpose of the arrangement. ... BC11

... Nonetheless, during its redeliberation the IFRIC considered the range of typical arrangements for private sector participation in the provision of public services, including some that were outside the scope of the proposed Interpretation. The IFRIC decided that the Interpretation could provide references to relevant

standards that apply to arrangements outside the scope of the Interpretation without giving guidance on their application. ... Information Note 2 contains a table of references to relevant standards for the types of arrangements considered by the IFRIC. BC13

13. Consequently, the focus on accounting for the infrastructure the submission notes is the result of the IFRIC's considered decision in finalizing the Interpretation after redeliberation. The staff does not believe that the submission should cause the IFRIC to reconsider that decision.
14. In addition, the staff notes that at least two of the questions raised in the submission are in fact explicitly addressed in the Interpretation:
  - (a) Revenue recognition is discussed in paragraphs 13 and 14-20 and illustrated in Illustrative Examples 1-3.
  - (b) Contractual obligations to maintain and restore the infrastructure are discussed in paragraph 21 and illustrated in Illustrative Examples 2-3.
15. The minimum annual amount the operator has agreed to pay to the grantor under the revenue sharing arrangement appears to be part of the total consideration the operator pays the grantor in return for the service concession asset.

### **Conclusion**

16. In the staff's view, the issues raised in the submissions are already sufficiently addressed in the Interpretation to prevent divergence from emerging in practice. In addition, the staff is of the opinion that the issues raised call for implementation guidance rather interpretation.