

Mr Robert Garnett
Chairman
International Financial Reporting Interpretations Committee
30 Cannon Street
London
United Kingdom
EC4M 6XH

Email: ifric@iasb.org

11 December 2008

Dear Mr Garnett,

Tentative agenda decision: IAS 37 *Provisions, Contingent Liabilities and Contingent Assets*/ IAS 38 *Intangible Assets*—Regulatory assets and liabilities

Deloitte Touche Tohmatsu is pleased to respond to the IFRIC's publication in the November 2008 *IFRIC Update* of the tentative decision not to take onto the IFRIC's agenda a request for an Interpretation of IAS 37 *Provisions, Contingent Liabilities and Contingent Assets* and IAS 38 *Intangible Assets* with respect to providing guidance on whether regulated entities could or should recognise a liability (or an asset) as a result of rate regulation by regulatory bodies or governments.

We concur with the IFRIC's assessment that, in jurisdictions that currently apply IFRS, there is no significant divergence in practice. Experience of first-time adoption of IFRS indicated that rights and obligations associated with operations under a rate-regulated regime would generally not give rise to elements that meet the definition of, and recognition criteria for, an asset or a liability under IFRS. However, albeit not so frequent, we are also aware of some cases where, after a thorough analysis of contractual arrangements and/or local regulations, the recognition of such elements was justified.

We note that several jurisdictions will soon apply IFRS and that in certain jurisdictions (including US, Canada and Brazil) their national GAAP has required (or permitted) the recognition of "regulatory assets and liabilities". We also note that some within these jurisdictions believe that recognising such assets and liabilities is supportable under the current IFRS Framework. Accordingly, we are concerned that this may result in diversity in practice between jurisdictions that have similar regulatory regimes. We therefore ask the IFRIC to encourage the IASB to add this project to its agenda and publish guidance to ensure that IFRS are properly interpreted in a consistent manner across all jurisdictions. In preparing the guidance, we would suggest that the IASB perform a thorough analysis of the various regulatory regimes in across jurisdictions to ensure that the guidance appropriately captures the economic results of those regimes.

If you have any questions concerning our comments, please contact Ken Wild in London at +44 (0)20 7007 0907.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Ken Wild', with a long, sweeping horizontal line underneath it.

Ken Wild
Global IFRS Leader