



Association pour la participation des
entreprises françaises à l'harmonisation
comptable internationale



Mouvement
des Entreprises de France
MEDEF

A F E P

Association Française des Entreprises Privées

IFRIC
30 Cannon Street
London EC4M 6XH
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Paris, April 25, 2008

Re: D 24 *Customer contributions*

ACTEO, AFEP & MEDEF welcome the opportunity to comment on the IFRIC exposure draft "D24: *Customers contributions*".

We agree with IFRIC that arrangements that involve an item of PP&E (necessary to operate the arrangement) – or some cash (to be used to produce the item of PP&E) - to be transferred by the customer to an access provider before the provision of services can start, raise revenue recognition issues.

In our view, however, we believe that the IFRIC should reach the same conclusion as it did when considering how to account for upfront payments (IFRIC Update January 2007), i.e. that it is very unlikely within a reasonable timeframe to reach a consensus on appropriate principles to base the accounting for customer contributions. Indeed we believe that customer contributions and cash contributions as defined in D24 are forms of upfront payments. In practice, the underlying contracts and arrangements need to be individually assessed to determine whether they include multiple deliverables and how IAS 18.13 should be applied.

Our major concern with D24 is the lack of a principle-based approach. Customer contributions and cash contributions as defined in D24 can stem from a great diversity of contracts and arrangements. As a result the one-size-fits-all approach that the IFRIC has chosen to retain is in our view highly inappropriate. D24 we believe would lead to arbitrarily account for different economic facts and circumstances in the same manner.

Our concern is all the greater that D24 scope is extremely wide. As mentioned above D24 scope encompasses a huge variety of different contracts and arrangements. As a result the impact of an irrelevant accounting treatment is likely to be significant. Also, such a variety is likely to create unintended overlaps with various existing standards or guidance, such as IFRIC 12, IAS 20, IAS 17 and IFRIC 4. Those overlaps are a potential source of confusion and uncertainty. They should therefore be avoided.

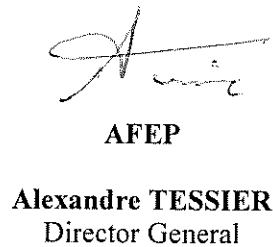
The above concerns lead us to reaching the conclusion that customer contributions should be removed from the IFRIC agenda as upfront payments have been. We provide the detailed analysis in the appendix to this letter.

Should you wish any supplementary comment or explanation, please do not hesitate to contact us.

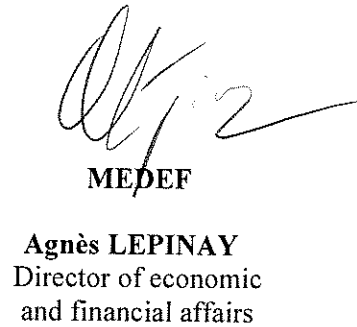
Yours sincerely,



ACTEO
Patrice MARTEAU
Chairman



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Alexandre TESSIER
Director General



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Appendix to ACTEO, AFEP & MEDEF's letter of comments on D24 "Customer contributions"

As explained in the cover letter, ACTEO, AFEP & MEDEF believe that D24 should be removed from the IFRIC agenda. We have reached this conclusion after having considered in what ways D24 could be amended in order to be workable.

1- The scope of the interpretation should be narrowed down substantially to get a chance of being workable

We observe that the scope of the interpretation as proposed is very wide. Many of our members have identified in practice arrangements which would be captured in the scope of D24, either directly or by close analogy, in areas that D24 background does not seem to address. D24 scope is very wide because:

- the contribution can be an item of PP&E or cash (or by analogy any other form of asset (financial and non-financial) as the rationale described in BC23 would apply and the reference to the framework (recognition of an asset) would apply;
- the contribution can be made by a customer or any other party;
- there is no condition set linking the contributed cash and the asset necessary to provide services;
- there is no timing requisite.

As a result, if D24 had to be finalised, we would recommend the IFRIC to narrow down the scope of the final interpretation in the following ways:

- a) To exclude cash contributions from the scope:** Cash by nature is fungible. There is a great variety of circumstances where a specific item of PP&E is necessary to provide goods or services to a customer. In these circumstances, all upfront payments would be deemed to cover partially or totally the cost of the specific item of PP&E. We refer to IFRIC's wording for rejection on up-front fees (IFRIC update, January 2007) where the IFRIC decided it could not reach conclusions in a reasonable time frame, to clearly identify what the entity provides in exchange for an up-front payment. Also, cash can be paid by instalments or other financial assets can be contributed; cash can be received in amounts that are either larger or smaller than the cost or purchase price of the item of PP&E: should there be then a cash contribution and a residual up-front payment (when the amount is larger), a partial cash contribution (when the amount is smaller)? The access provider may already hold items of PP&E as inventory... As a result, cash contributions are widening the scope potentially beyond what we believe is reasonable to avoid any unintended consequences or any form of misapplication. Although we understand and support the rationale described in BC23 (the economic effect of a cash contribution can be very similar to the economic effect of a customer contribution), we believe that D24 should exclude cash contributions as their inclusion is widening D24 scope to a very large (and probably unintended) extent.

- b) To exclude from the scope payments made supposedly “on behalf” of the entity:** Boundaries between IAS 20, IFRIC 12 and D24 are unclear. Should IAS 20 or D24 apply in circumstances where an access provider receives money from, let’s say, a governmental or international agency in order to build its own plant or distribution network that are necessary to provide, for example, electricity or telecommunications to a whole range of customers or to a geographical area? Under IAS 20, an accounting policy choice is provided. We recommend that D24 be limited to those circumstances where the construction obligation and the supply arise from the same arrangement, and where any third-party involved clearly acts on behalf of a well-identified customer. In all other situations, we believe other IFRS should apply;
- c) To exclude from the scope arrangements which fall within the scope of IFRIC 12:** Many concession arrangements start with the grantor giving to the operator access to an existing network, on the basis that the arrangement includes an obligation for the operator to maintain and potentially increase the network during the life of the contract. This type of arrangement could be deemed to fall within the scope of either D24 or IFRIC 12, creating confusion and leading to different accounting outcomes. We therefore believe that an explicit exclusion from the scope of D24 being made explicit as part of the consensus would be welcome, in a way similar to what was done to restrict the IFRIC 4 scope.
- d) To restrict the scope of D24 to items of PP&E (and exclude any form of other non-financial asset):** Letting D24 be applied by analogy to intangible assets, for example, may encompass licensing arrangements and thereby also create confusion.
- e) To exclude from the scope arrangements which fall in the scope of IAS 17 and IFRIC 4:** this recommendation is similar to the one made in c) above. There is such a great diversity of arrangements in practice that D24 can create overlaps of D24 with IAS 17 and IFRIC 4. To ensure that no possibility of unintended consequences remains, we believe D24 scope should be restricted accordingly.

Having concluded that the D24 scope should be narrowed down quite substantially in order to lead to an acceptable interpretation, thereby leaving out arrangements that might in substance be similar to arrangements encompassed in the revised scope, we believe customer contributions should be removed from the IFRIC agenda.

2- *The consensus is not sufficiently principle-based and, as a result, does not leave any room for different economic circumstances to be accounted for differently*

The width of the interpretation scope calls for a huge variety of different schemes to be accounted for in accordance with the consensus. As a result we are strongly opposed to the rationale of the IFRIC as described in BC 17. In BC 17 we believe that the IFRIC rightly describes different possible situations which are different in substance and which as a result call for different accounting treatments. Situations described in BC17 a) and b) exist in current practice and should be accounted for in accordance with their substance. We fully agree with IFRIC when it decided, back in January 2007, to remove upfront payments from its agenda, in observing “...that a wide range of business models utilising initial and ongoing fees exists in different markets. The services provided and the revenue that may be recognised in each situation depend on the facts and circumstances relevant to each model”.

We believe interpretations should remain principle-based and that at no point in time the IFRIC should be in a situation of assuming what the economic reality is like (as is done in BC17) to decide the appropriate accounting treatment. Doing so leads to the application of uniform, rule-based accounting requirements to arrangements that are truly different in substance. In order to reach a principle-based consensus, we believe IFRIC should ask entities to exercise judgement in the application of IAS 18.13, in order to determine whether the contract is a multiple deliverable arrangement, ie whether the provision of access to the network can be analysed as a transfer of asset to the customer. For example, in situations where the access provider is obliged – by law or otherwise – to provide access to anyone who makes the appropriate request, we do not believe that there is the transfer of any asset to the customer (what everybody can have does not meet the definition of an asset in the framework), and hence no obligation arises. This is the case, for example, when an electricity provider is entitled to invoice the real estate seller or the first owner of a building for a participation in the cost of setting up the necessary connection. Once the connection is ready, electricity is provided to the first owner and his successors on the very same commercial terms. We therefore believe that an obligation of providing ongoing services to the customer is being incurred only in situations where the customer enjoys conditions that are not available to another customer who wouldn't have provided a similar asset. Those conditions may take the form of a dedicated scarce manufacturing capacity, terms more favourable than market terms, or any other form of economic resource. The obligation is incurred over the period in proportion to and when the customer benefits from its privileges: access to the output of the facility, benefit from below market price and conditions etc... This is the case, for example, when an electricity provider receives an amount of cash from a distributor in exchange for rights to a share of the output of a facility and to below-market prices for the purchase of the related output.

In all other situations, we believe that the entity does not incur any obligation other than to provide access or construct/deliver the asset necessary to provide services. As a result we believe that no revenue should be deferred after the customer has access to the services.

We also note that our conclusion is consistent with example 17 in the IAS 18 guidance that deals with initiation, entrance and membership fees.

Having identified the need for a principles-based approach to the application of IAS 18.13 (which we believe is a prerequisite to a robust interpretation), we have reached the conclusion that the IFRIC was facing the same difficulties it faced back in January 2007 when dealing with other forms of upfront payments. We therefore believe and recommend that D24 should be removed from the IFRIC agenda.

3- Other comments

- a) **The nature of the obligation has not been made sufficiently clear:** Although we understand from the IFRIC rationale in paragraphs 11, 14 and 20 of the draft interpretation and from the list of standards to which the draft interpretation refers that the obligation the IFRIC is considering would arise from a prepayment made by a customer, i.e. deferred revenue, we believe that the draft interpretation would greatly benefit from a clearer statement.

- b) We would like to draw the attention of the IFRIC that referring to any form of liability as an “obligation” does not belong to the usual vocabulary of the constituents (though we acknowledge it is basic in the definition of a liability). In addition, the constant reference throughout the interpretation to “obligation to provide services” lead people to consider the obligation that arises from the contract (ie. an obligation whose recognition is not capped by the customer’s prepayment). As a result the conclusions reached in paragraph 14 and 20 tend to be misunderstood.
- c) **Recognition of a customer contribution as an asset:** It sounds surprising that an interpretation would refer to the framework, and not to IAS 16, to determine whether an item of PP&E qualifies for recognition as an asset. We acknowledge that neither the definition nor the recognition criteria in IAS 16 impose that an item of PP&E be an asset. We also acknowledge that the definition in IAS 16 characterises an item of PP&E as a tangible item “held for use in the production or supply of goods and services” and that in the context of D24 this sole characteristic has to be further assessed to determine whether it is an asset as is explained in par 10. As a result we understand that reference to the framework is necessary. We would encourage a detailed explanation in the basis for conclusions and possibly an annual improvement to ensure that IAS 16 requires an item of PP&E be an asset.
- d) **whether IFRIC 4 applies:** D24 consensus refers to IFRIC 4 and IAS 17 in circumstances described as customer contributions and not in circumstances where the access provider is granted a cash contribution. We believe that such a drafting may suggest that IFRIC 4 would not apply when the item of PP&E is financed by the cash contribution. We believe that for the sake of clarity the analysis should consider whether IFRIC 4 should apply in all situations encompassed in the consensus where the asset is the access provider’s asset.
- d) **Choice of labels :** We do not support the choice of labelling the item of PP&E « customer contribution » and the cash « cash contribution » because it does not adequately describe the differences between the two types of contribution. Both are contributions by the customer. An alternative might be “PP&E customer contribution” and “Cash customer contribution”.

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