Documents published to accompany

IFRIC 6

Liabilities arising from Participating in a Specific Market—Waste Electrical and Electronic Equipment

The text of the unaccompanied Interpretation, IFRIC 6, is contained in Part A of this edition. Its effective date when issued was 1 December 2005. This part presents the following document:

BASIS FOR CONCLUSIONS

Basis for Conclusions on IFRIC Interpretation 6 *Liabilities arising from Participating in a Specific Market—Waste Electrical and Electronic Equipment*

This Basis for Conclusions accompanies, but is not part of, IFRIC 6.

BC1 This Basis for Conclusions summarises the IFRIC's considerations in reaching its consensus. Individual IFRIC members gave greater weight to some factors than to others.

BC2 The IFRIC was informed that the European Union's Directive on Waste Electrical and Electronic Equipment (WE&EE) had given rise to questions about when a liability for the decommissioning of WE&EE for certain goods should be recognised. The IFRIC therefore decided to develop an Interpretation that would provide guidance regarding what constitutes an obligating event in the circumstances created by the Directive.

BC3 The IFRIC's proposals were set out in Draft Interpretation D10 *Liabilities arising from Participating in a Specific Market—Waste Electrical and Electronic Equipment*, which was published in November 2004. The IFRIC received 22 comment letters on the proposals.

BC4 The Directive indicates that it is participation in the market during the measurement period that triggers the obligation to meet the costs of waste management.

BC5 For example, an entity selling electrical equipment in 20X4 has a market share of 4 per cent for that calendar year. It subsequently discontinues operations and is thus no longer in the market when the waste management costs for its products are allocated to those entities with market share in 20X7. With a market share of 0 per cent in 20X7, the entity's obligation is zero. However, if another entity enters the market for electronic products in 20X7 and achieves a market share of 3 per cent in that period, then that entity's obligation for the costs of waste management from earlier periods will be 3 per cent of the total costs of waste management allocated to 20X7, even though the entity was not in the market in those earlier periods and has not produced any of the products for which waste management costs are allocated to 20X7.

BC6 The IFRIC concluded that the effect of the cost attribution model specified in the Directive is that the making of sales during the measurement period is the 'past event' that requires recognition of a provision under IAS 37 *Provisions, Contingent Liabilities and Contingent Assets* over the measurement period. Aggregate sales for the period determine the entity's obligation for a proportion of the costs of waste management allocated to that period. The measurement period is independent of the period when the cost allocation is notified to market participants. The timing of the obligating event may also be independent of the particular period in which the activities to perform the waste management are undertaken and the related costs incurred. Incurring costs in the performance of the waste management activities is a separate matter from incurring the obligation to share in the ultimate cost of those activities.

BC7 Some constituents asked the IFRIC to consider the effect of the following possible national legislation: the waste management costs for which a producer is responsible because of its participation in the market during a specified period (for example 20X6) are not based on the market share of the producer during that period but on the producer's participation in the market during a previous period (for example 20X5). The IFRIC noted that this affects only the measurement of the liability and that the obligating event is still participation in the market during 20X6.

BC8 The IFRIC considered whether its conclusion is undermined by the principle that the entity will continue to operate as a going concern. If the entity will continue to operate in the future, it treats the costs of doing so as future costs. For these future costs, paragraph 18 of IAS 37 emphasises that 'Financial statements deal with the financial position of an entity at the end of its reporting period and not its possible position in the future. Therefore, no provision is recognised for costs that need to be incurred to operate in the future.'

BC9 The IFRIC considered an argument that manufacturing or selling products for use in private households constitutes a past event that gives rise to a constructive obligation. Allocating waste management costs on the basis of market share would then be a matter of measurement rather than recognition. Supporters of this argument emphasise the definition of a constructive obligation in paragraph 10 of IAS 37 and point out that in determining whether past actions of an entity give rise to an obligation it is necessary to consider whether a change in practice is a realistic alternative. These respondents believed that when it would be necessary for an entity to take some unrealistic action in order to avoid the obligation then a constructive obligation exists and should be accounted for.

BC10 The IFRIC rejected this argument, concluding that a stated intention to participate in a market during a future measurement period does not create a constructive obligation for future waste management costs. In accordance with paragraph 19 of IAS 37, a provision can be recognised only in respect of an obligation that arises independently of the entity's future actions. For historical household equipment the obligation is created only by the future actions of the entity. If an entity has no market share in a measurement period, it has no obligation for the waste management costs relating to the products of that type which it had previously manufactured or sold and which otherwise would have created an obligation in that measurement period. This differentiates waste management costs, for example, from warranties (see Example 1 in the guidance on implementing IAS 37), which represent a legal obligation even if the entity exits the market. Consequently, no obligation exists for the future waste management costs until the entity participates in the market during the measurement period.