

## FAQ – How to determine if the grantor controls a partly regulated asset?

One of the key aspects of a service concession asset is that the grantor **controls** the asset.

The grantor **controls** the asset if it **controls or regulates**:

- what services the operator must provide with the asset;
- to whom the services must be provided;
- at what price the services must be provided; and
- the grantor controls any significant residual interest in the asset at the end of the term of the arrangement<sup>1</sup> or the asset will be used in the service concession arrangement for its entire economic life (a ‘whole-of-life’ asset).

Sometimes the use of a service concession asset is partly regulated in the manner described above and partly unregulated. It will be a matter of judgement whether **enough** of the service is regulated in order to demonstrate that the grantor has control of the asset<sup>2</sup>. This judgement should consider the combination of **all** aspects of the control criterion, as well as the substance of the arrangement as a whole, to determine if this control test is met.

### Regulated vs Unregulated services

- A regulated service is where the grantor or a third-party regulator determines the type of services to be provided, the recipients of the services and/or the price of the services.
- An unregulated service is where the operator can freely determine any or all of the following – the type of services to be provided, the recipients of the services and/or the price of the services to be provided with the asset.

Taking into consideration the substance of the whole arrangement, judgement will be required as to the relative significance of the regulated versus unregulated activities in order to determine whether the grantor has control of the asset and/or has granted a right of use to the operator<sup>34</sup>. Note: When purely ancillary services are unregulated, the control test is applied as if those services do not exist<sup>5</sup>.

Agencies should also take into consideration the grantor’s approval rights when determining whether a service is regulated or unregulated. Only substantive (not protective) rights of the grantor will be relevant to the assessment.

### Examples of assets providing both regulated and unregulated services include:

- The shared wing of a hospital accepts both public and private patients. Regulated services applies to the public patients, while unregulated service applies to the private patients because the operator of private services has the ability to determine the services to be provided, whether to accept patients and the price charged to patients for the services.
- A sports facility where the facility must be used for community sporting events between the hours of 9-5pm, beyond that the operator has discretion over how it can be used e.g. for private events. In this scenario the services, recipients and pricing are regulated for the community events whilst the private events are unregulated. Beyond the hours of 9-5pm, the operator can freely determine what service the facility is used for, who uses it and at what price.

## Significance<sup>6</sup>

In determining whether the unregulated portion of the services are significant, the nature and relative significance of each component of the arrangement and the services provided should be considered carefully<sup>4</sup>.

In making the assessment of the relative quantitative significance, it is essential to apply an appropriate metric.

### What metric should be used in making the quantitative assessment?

The relevant metric to use in the assessment of regulated versus unregulated services requires **judgement** and is dependent upon the nature of services being provided. The metric used should be an appropriate measure of the services provided by the asset(s) being assessed. For example, where the asset is used to provide both regulated and unregulated commuter passenger services, an appropriate metric to measure the amount of services provided by the asset could be the number of commuter passengers using the regulated service vs the number of passengers using the non-regulated services. Where the asset is a facility used to provide both regulated and unregulated health related services, an appropriate metric could be the number of patients treated or medical procedures performed at the facility.

If more than one metric seems appropriate but each give you a different outcome, agencies should apply judgment as to whether one or a combination of metrics is most appropriate. If you have any questions about the appropriate metric to use or service concessions generally, please contact the [Accounting Policy Team](#).

### **Other related considerations**

**Unit of assessment** – An agency’s control assessment should be performed on an asset-by-asset basis. Refer to “**FAQ – How do you identify separate service concession assets within a service concession arrangement?**” for further guidance.

**Reassessment triggers** – An agency’s control assessment is not a set and forget exercise, therefore, an agency is required to reassess control when there is a change in facts and circumstances that indicate the agency’s control of the asset may have changed during the term of the arrangement.<sup>7</sup> Refer to “**FAQ - When do I need to reassess an existing service concession arrangement?**”

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<sup>1</sup> AASB 1059.5 “The grantor shall recognise an asset provided by the operator and an upgrade to or a major component replacement for an existing asset of the grantor as a service concession asset if the grantor controls the asset. The grantor controls the asset if, and only if: (a) the grantor controls or regulates what services the operator must provide with the asset, to whom it must provide them, and at what price; and (b) the grantor controls – through ownership, beneficial entitlement or otherwise – any significant residual interest in the asset at the end of the term of the arrangement.”

<sup>2</sup> AASB 1059.B26 “...it will be a matter of judgement whether enough of the service is regulated in order to demonstrate that the grantor has control of the asset.”

<sup>3</sup> AASB 1059.IG23 “...judgement will be required as to the relative significance of the regulated versus unregulated activities in order to determine whether the grantor has control of the asset and/or has granted a right of use to the operator.”

<sup>4</sup> AASB 1059.B6 “Assessing whether an asset provides public services requires judgement, taking into account the nature and relative significance of each component and the services provided.”

<sup>5</sup> AASB 1059.B25(b) “when purely ancillary activities (such as a hospital shop) are unregulated, the control tests shall be applied as if those services did not exist, because in cases in which the grantor controls the services in the manner described in paragraph 5(a), the existence of ancillary activities does not detract from the grantor’s control of the service concession asset.”

<sup>6</sup> AASB 1059.BC34 “The Board decided that: (b) the term ‘significant’ is used in numerous Standards without specific guidance as to what would constitute ‘significant’ [emphasis added]. The Board did not consider specific guidance on the term would be appropriate in this Standard. If the Board were to provide guidance on the term, the Board may need to refer the matter to the IASB for consideration with reference to maintaining compliance with IFRS Standards. Consideration by the IASB on this issue would most likely have implications beyond service concession arrangements.”

<sup>7</sup> AASB 1059.B31 “Where there is a change in facts or circumstances that indicate the grantor’s control of the asset may have changed, the grantor assesses whether the asset is still within the scope of this Standard or should be reclassified within the scope of another Standard.”