Development of Implementing Rules and AMC/GM for Air Operations

CAA UK OPS Workshop
Gatwick, 20/21 January 2009

AGENDA

1. The EU legal framework
2. Differences with the JAA system
3. OPS.001 and MDM.032 RM groups
4. The EASA Rulemaking Procedure and OPS NPA Schedule

1. The EU legal framework

The EU legal framework

Main mission:

- to establish and maintain a high uniform level of civil aviation safety and environmental compatibility.

Additional objectives:

- Free movement of goods, persons and services.
- Cost efficiency of regulatory processes.
- Effective uniform implementation of ICAO SARPs.
- Promoting Community views at the global level.

The EU legal framework

EASA has been established as an independent regulator to meet these objectives by:

- **preparing the necessary proportionate rules; and**
- **overseeing their actual implementation.**

The EU legal framework

The EC Treaty is based on the principle that the Community **acts as a legislator**, while **Member States apply** Community law under Community control.

Community law is directly applicable (full part of Member States' legal order).

Legal remedies for individuals and enforcement means are provided by Member States' judicial systems.

The EU legal framework

National Aviation (or Supervisory) Authorities are the **legitimate executive arms** of the Community.

It is their role to **implement** Community law.

No one else has the **local presence** to do so or the **capability** to grant **exemptions** when local conditions or exceptional situations so require.

No one else can trigger the national **enforcement** system.

The EU legal framework

Member States act under the control of the Commission, whose role is to ensure effective and uniform implementation of Community law. Such role is essentially of an enforcement nature (infringement procedure).

EASA assists the Commission through standardisation inspections. This provides for the opportunity to also assist National Aviation Authorities in identifying their weaknesses and in rectifying them before an infringement procedure is initiated.

The EU legal framework

EASA assists the Commission in its legislative role by:

- preparing essential requirements to transpose political objectives into technical terms;
- preparing detailed implementing rules that clarify what all those involved shall do to comply; and
- evaluating the results achieved on the field to feed a process for continuously improving the quality of rules.

The EU legal framework

EASA **assists National Aviation Authorities** in their implementing role by:

- adopting and disseminating **best practices** (acceptable means of compliance) and **guidance material**;
- providing them and applicants with advise on **interpretation** of rules; and
- organising **training and workshops** so as to help understanding and applying rules.

The EU legal framework

The application of Community law, in particular the evaluation of conformity with binding standards (certification), may be delegated to a **Community Agency**.

Such an option is preferred when **centralised** action is the best means to achieve **uniform** implementation.

In such case the empowering act shall specify the **judicial remedies** available to individuals. This implies giving them access to the European Court of Justice.

The EU legal framework

	PL	Ratings, certificates	MC	ATO	FSTD	AeMC	OPS
EASA country	MS	MS	MS	MS	MS[1]	MS	MS
Non-EASA country	MS	MS	MS	EASA	EASA	EASA	EASA

1) EASA, when requested by a MS

The EU legal framework

Basic Regulation
Regulation (EC) 216/2008 of 20/02/2008

ER :
Annexes I to V

Agency Opinion

Regulation (EC) 1702/2003 on Airworthiness and Environmental Certification

Annex (Part 21)

Section A: Application Requirements

Section B: administrative Procedures

Appendices: EASA forms

Agency Opinion

Regulation (EC) 2042/2003 on Continuing Airworthiness

Annex I (Part-M): Continuing Airworthiness Requirements

Annex II (Part-145): Maintenance Organisation Approvals

Annex III (Part-66): Certifying Staff

Annex IV (Part-147): Training Organisation Requirements

Section A: Technical Requirements

Section B: Administrative Procedures

Appendices: EASA forms

Guidance Material

Part 21

Certification Specifications

AMC 20
AMC 21
CS 25
CS 34
CS 36
CS E
CS P
CS APU

CS AWO
CS ETSO
CS Definitions

CS 22
CS 23
CS 27
CS 29
CS VLA
CS VLR

AMC & Guidance Material

Part M, 145,66,147

Agency CS , AMC & GM

Parliament and Council

European Commission

EASA

The EU legal framework

- The **Parliament** and the **Council**:
  - define the **Scope of Powers** transferred from the Member States to the Community; and
  - adopt the **Essential Requirements** specifying the objectives to be met.
- The **Commission**
  - adopts **standards** for implementing the essential requirements.
- The **Agency**
  - adopts **non-binding standards** for implementing the essential requirements.

2. Differences with the JAA system

Differences with the JAA system

- As EASA **implementing rules** are binding in their entirety (not minimum standards nor recommended practices), they shall be **less prescriptive** to provide for flexibility (**performance based**).
- To provide for uniformity, **Acceptable Means of Compliance** have to be issued on how to comply with the implementing rules.
- As a consequence, some rule material included in Sections 1 of JARs was 'downgraded' to AMC.

Differences with the JAA system

- Because the **scope** of the EASA system extends well beyond that of the JAA (e.g. JAR-OPS only applies to CAT; EASA rules shall cover all aircraft and types of activities); and

- because **drafting principles** of Community law require that a requirement applicable to various persons/organisations be set in a single text,

it is not possible to have one rule per type of activity or aircraft.

Differences with the JAA system

- The Agency proposals also contain **differences** in the **drafting style** resulting from the application of EU principles.
- Community legislative acts shall be drafted **clearly**, **simply** and **precisely**. The drafting of a legislative act must be:
  - clear, easy to understand and unambiguous;
  - simple, concise, containing no unnecessary elements; and
  - precise, leaving no uncertainty in the mind of the reader.

Differences with the JAA system

- Because of the nature of the EC, Member States **may no more**:
  - **deviate from common rules -** except in the case of article 14 of the Basic Regulation;
  - **impose additional requirements -** to ensure a level playing field and no discrimination; or
  - **conclude international arrangements with third countries -** transfer of competence produces effects also for international competence.

3. OPS.001 and MDM.032 RM groups

OPS.001 and MDM.032 RM Groups

- Composition of drafting groups:
  - Experts from trade associations (commercial and non-commercial operators, pilots, cabin crew);
  - Aircraft manufacturers; and
  - National Aviation Authorities.

OPS.001 and MDM.032 RM Groups

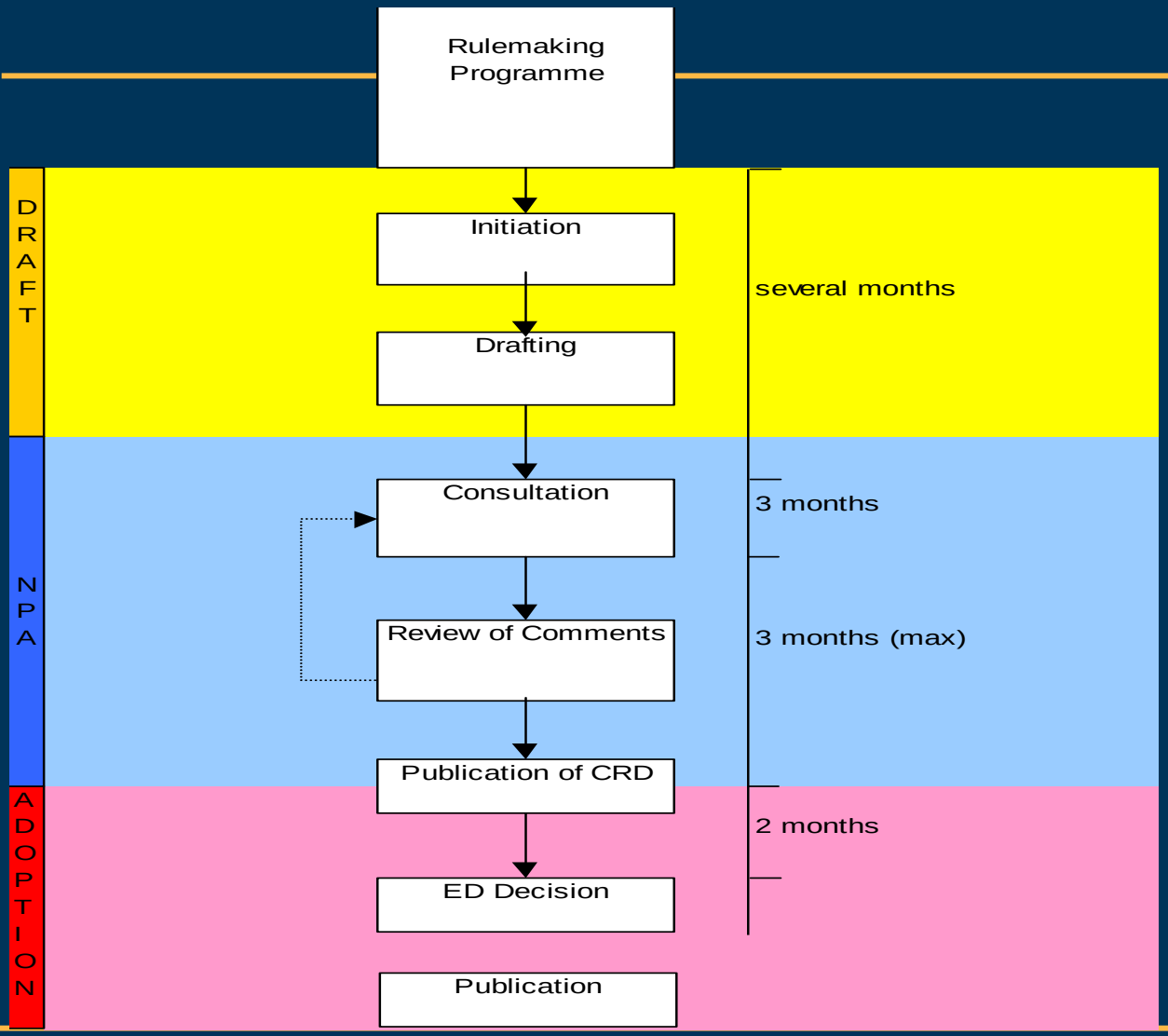
- **OPS.001 drafting group:**
  - **started its work in August 2006;**
  - **created 4 subgroups:**
    - **Subgroup commercial air transport**
    - **Subgroup aerial work**
    - **Subgroup non-commercial operations with complex motor-powered aircraft**
    - **Subgroup Authority requirements and SMS**
  - **subgroups delivered their work to the OPS.001 core group and the Agency during summer 2007.**

OPS.001 and MDM.032 RM Groups

- **MDM.032 drafting group:**
  - tasked to propose a concept for better regulation of general aviation;
  - drafted elements of non-commercial operations with non-complex motor-powered aircraft;
  - started its work in March 2006; and
  - delivered its work to the OPS.001 core group and the Agency during summer 2007.

4. The EASA Rulemaking Procedure and OPS NPA schedule

Rulemaking process flowchart



The OPS NPA Schedule

NPA Publication 30 Jan 2009

4 month Public Consultation until 30 May 2009

3 month Comment Review until 28 Aug 2009

2 month CRD publication until 31 Oct 2009

EASA Opinion after 31 Oct 2009

Comitology

EASA Decision after adoption EC Reg. (Spring/ Summer 2010?)

Thank you
for your attention.