

ECCAF Subgroup

Code Mapping Working Group

Capacity Calculation and Congestion Mngmt



29 April 2014
Elexon, London

Wifi Details

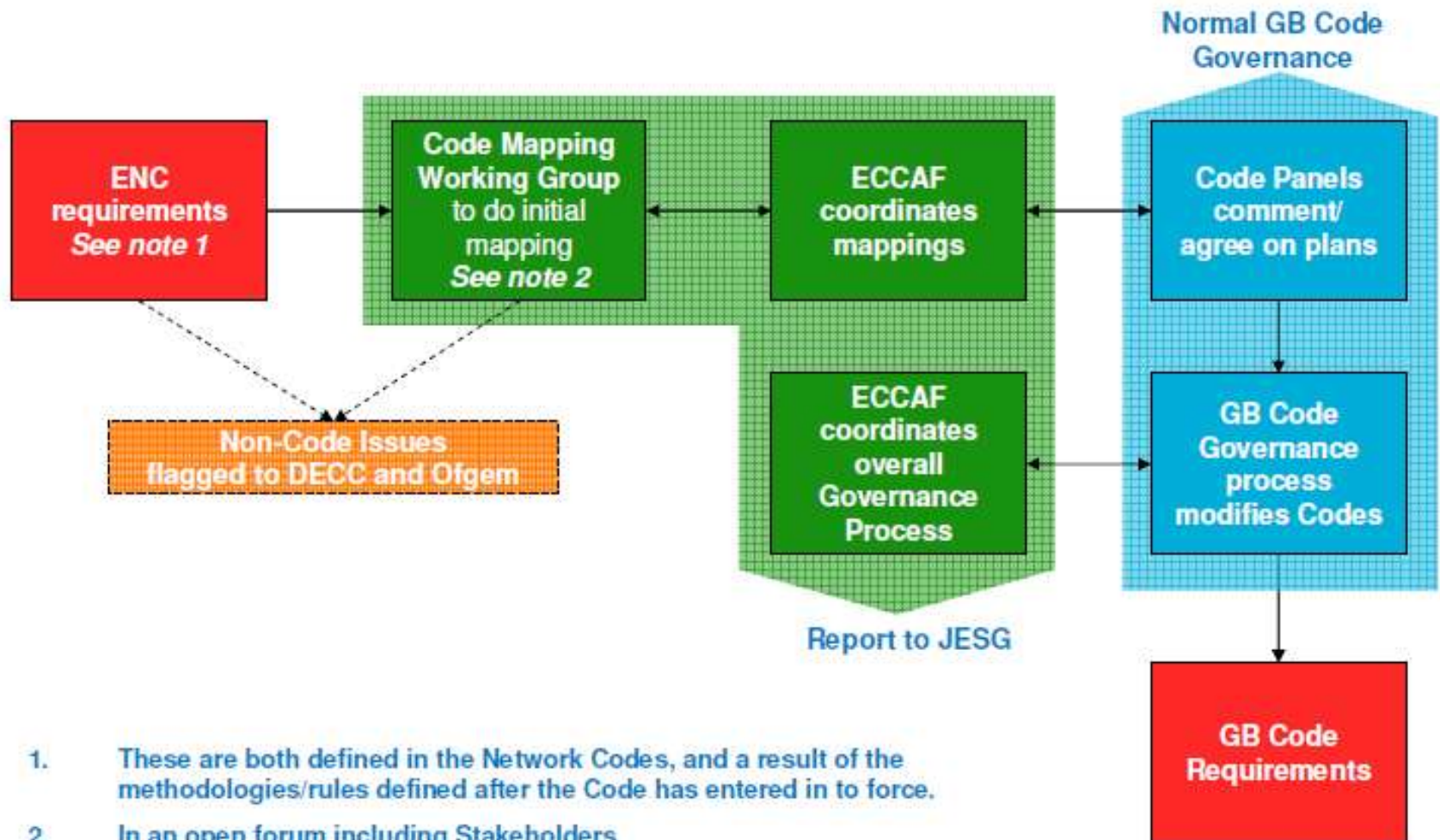
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ECCAF / CMWG Work Process



1. These are both defined in the Network Codes, and a result of the methodologies/rules defined after the Code has entered in to force.
2. In an open forum including Stakeholders

Papers for today's meeting

■ Physical copies

- Agenda
- Latest version of CACM

■ Available Electronically

- CACM to GB Framework Mapping prepared by DECC/Ofgem/NGET
- All of the above
- GB Codes

ECCAF

Principle of Direct Effect and how this can be applied to the ENC's in practice

Peter Hicks

29/04/2014

ofgem

- 1) What we mean by “Direct Effect”
- 2) The role of Direct Effect in implementation of the ENCs
- 3) Enforcement where Direct Effect is used
- 4) Practical examples from CACM

Caveats on CACM examples

- 1) These examples are illustrative and are not Ofgem official views
- 2) The CACM text is still draft – our spreadsheet is a preliminary view only

1) What does Direct Effect mean?

- Direct Effect is a principle of EU law which allows EU legislation to be enforced by an individual in a court of a Member State without further action by a Member State
- Direct Effect can be vertical or horizontal
- Principle of “Indirect Effect”

2) For a provision of EU law to have direct effect it must:

To have direct effect a provision must satisfy all of the below criteria:

- Be clear and precise; and
- It must be unconditional; and
- It must not give the MS discretion as to application; and
- Time limit for implementation must have expired

3) Direct Effect and ENC implementation

- Regulations are normally directive effective but ENCs are slightly different – unhelpfully!
- Ofgem will still need enforcement powers even where provisions of an ENC have direct effect

4) CACM examples

- 1) Article 1(3) “The provisions of this network code shall apply to transmission systems and interconnections except the transmission systems on islands which are not connected with other transmission systems with interconnections” **DIRECTLY EFFECTIVE**
- 2) Article 6(1) “For those terms and conditions or methodologies in this Regulation which need to be developed and agreed by more than one TSO or NEMO, participating TSO and NEMOs shall closely coordinate to ensure the development of harmonised terms and conditions or methodologies. All TSOs, with the assistance of ENTSO-E, and all NEMOs shall regularly inform the competent NRAs and the Agency about the progress of developing these terms and conditions or methodologies.” **NOT DIRECTLY EFFECTIVE**

4) CACM examples

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