



Highlight: NCC Coming Up

Monday, 23 May 2016 | 12:25 – 12:45

PRESENTED BY:

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What has been done by the BA community

- 14.03.2014 EASA-EBAA Workshop – How to prepare for Part-NCC
- 02.12.2014 EBAA NCC Workshop 1 – Setting the scene
- 30.06.2015 EBAA NCC Workshop 2 – Raising the issues with CAAs
- 15.09.2015 Part-NCC Conference Geneva – OPS aspects
- 28.01.2016 Part-NCC Conference London – OPS aspects
- 02.03.2016 EASA-EBAA Workshop – Part-NCC implementation
- 14.03.2016 Part-NCC Conference London – Legal aspects
- 28.04.2016 Part-NCC Conference Berlin – OPS aspects



numerous panels and presentations at conventions and conferences in Europe in 2014-2015-2016

What has been raised by the BA community

Marked difference between CAT and NCC?



All complex aircraft concerned?



CAMO for TC aircraft?



Lack of guidance and information from authorities



Which operators are considered as complex?



Regulatory & oversight duplication for TC aircraft



Scope of Part-NCC

Part-NCC applies to...

... any complex or non-complex operator

... engaged in non-commercial operations

... of complex motor-powered aircraft

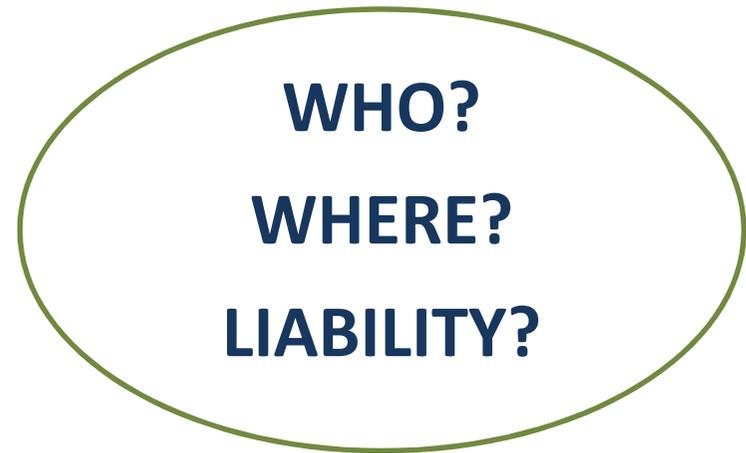
... and having its principal place of business or residence in one of the Member States.

Aircraft Owners' concerns

Registered Owner (SPC)



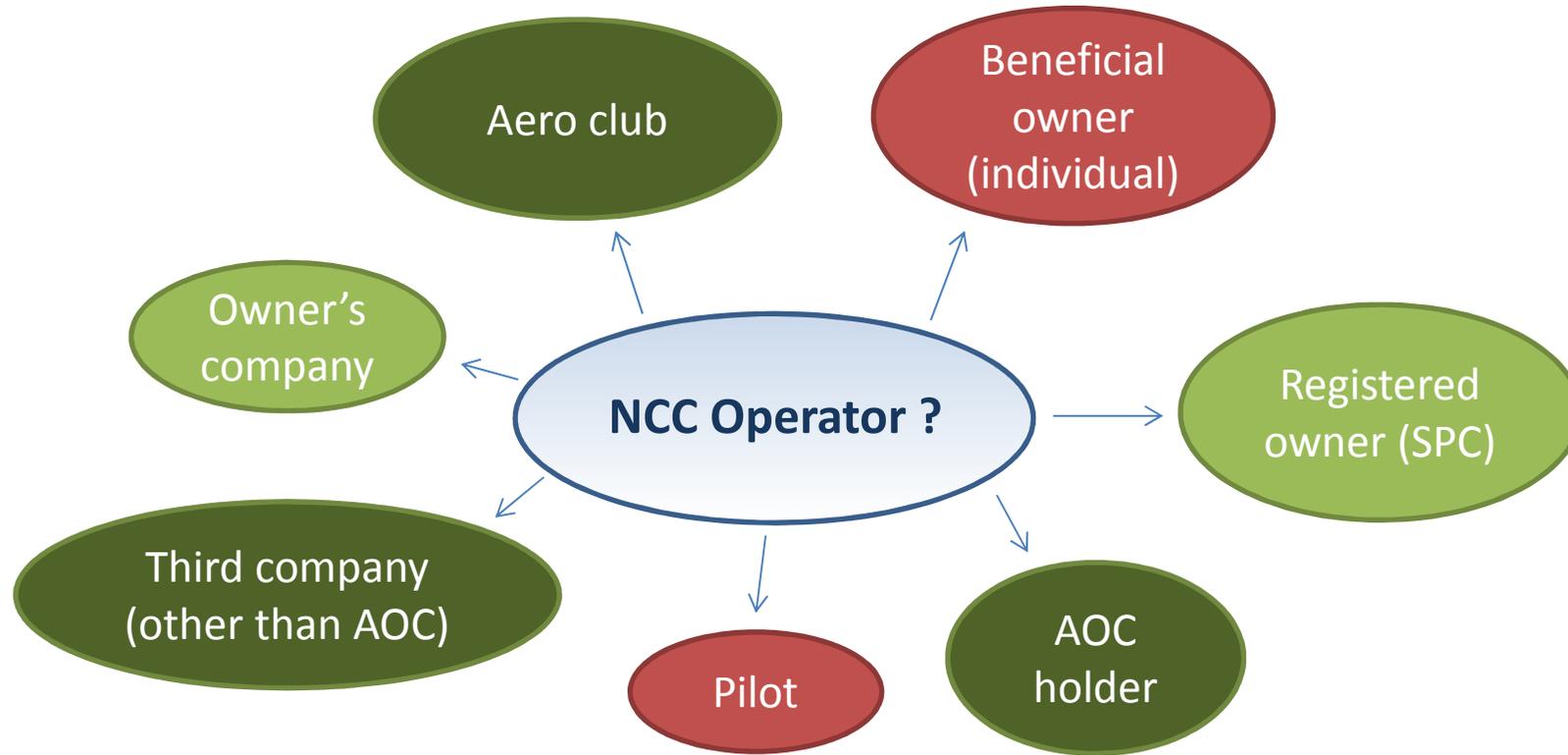
Operational structure



REORGANISATION!



Potential NCC operators



 signs the declaration : responsibility

 assumes the operational risk : liability

Civil
Criminal
Administrative



AOC and NCC Operations by AOC holders

AOC holder

AOC operator

Commercial OPS : **Part CAT** applies

Non-commercial OPS (ORO.AOC.125):

- **Part-CAT** applies
- **Differences** from **Part-NCC**
- No declaration required



NPA
2015-05

NCC operator

- **Part-NCC** applies
- Declaration

Operational control

Operational control is “the responsibility for the initiation, continuation, termination or diversion of a flight in the interest of safety”. (Regulation (EU) No 965/2012, Annex I (91))

ORO.GEN.110 Operator responsibilities

(a) The operator is responsible for the operation of the aircraft (...)

(c) The **operator** shall establish and **maintain a system for exercising operational control over any flight operated under the terms of its certificate, SPO authorisation or declaration.**



The PIC has also a part of the operational control in the exercise of his/her activity, however it does not make him/her the operator



If operational tasks are sub-contracted to third parties, who holds the operational control? Role of each party and operator's oversight mechanism shall be clearly defined in the agreements between the parties

Principal place of business & residence

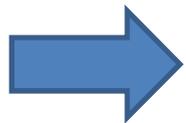
The “**competent authority**” shall be “the authority designated by the Member State in which the operator has its principal place of business or is residing”. (Regulation (EU) No 965/2012, NCC.GEN.100)

“**Principal place of business**” is defined as “the head office or registered office of the organisation within which the principal financial functions and operational control of the activities are exercised”.

(Regulation (EU) No 965/2012, Annex I (97))

“For non-commercial operations, this is usually the home base of the aircraft concerned, or the location of the flight department.”

(Guidance Material GM1 ORO.GEN.105)



For a non-complex operator, the operational control and the flight department can be exercised and managed by one single part-time employee (AM), located in any country in the world.

Owners' decision criteria

Notions of «Operator», «Operational control» and «Principal place of business» leave flexibility to Owners.

Owners' choice on the adequate OPS structure and principal place of business is mainly driven by following factors:

- Company law and taxation
- Import VAT
- Employment law
- Aviation regulations (OPS, FCL)



The location of the aircraft and the place of residence of the Owner are not decisive factors for the latter.

Aircraft registered in third countries

The operations of following aircraft shall also comply with the EU Regulation (Regulation (EC) 216/2008, Article 4)

- Aircraft registered in a third country and used into, within or out of the Community by an operator **established or residing** in the Community
- Aircraft registered in a third country and used by a third-country operator into, within or out of the Community

Part-NCC
Reg-TCO
(deferred until further notice)



Issue not (yet?) solved: SoR and/or SoO?

Annex 6 Part II ICAO provides for a necessary coordination between State of Registry (SoR) and State of the operating base (SoO).

The EU does not foresee this coordination because it wants to impose its regulatory and oversight system to operators of third country aircraft with PPB/residence in EASA MS.

- ➔ These operators will need to comply with two regulatory and oversight systems: is it safe?
- ➔ Which CAA will be liable in case of an accident?
- ➔ EU Regulation violates the rights and autonomy, and affects the obligations of third countries as specified in the Chicago Convention



New EU Part-FCL requirements

Will a EU-FAA
BASA solve
this issue?

From **8 April 2017**, pilots holding a licence issued by a third country involved in the non-commercial operation of an aircraft whose operator is established or has its residence in an EU Member State shall comply with EU Part-FCL regulation.

- ➔ Pilots must take the theory exams required by Part-FCL and complete a practical training
- ➔ Sometimes huge gap between FAA and EU requirements
- ➔ Pilots can seek for a validation of their licence and ratings for 1-2 years

Case study

A/C Owner resides in Monaco. His TC registered A/C is located 40% in Switzerland, 30% in France and 30% in UK.

To avoid import VAT in Switzerland, Owner cannot create its operational structure in this country and could opt for France or UK.

Because of his FAA license with ATPL(A) theory and the risk of new Part-FCL obligations as from 8 April 2017, he plans to set up a small operational structure within his SPC (with seat in a TC) and to hire a part-time AM to take care on the operational control and the books. All management services would be sub-contracted to a management company in France or UK. **Where is the principal place of business?**

Now, if FCL issue is solved, Owner would agree to set up the operational structure in France or UK only if he has the guarantee that the operations will not suffer a duplication of OPS and technical regulations and oversight. **Can these countries guarantee this today?**



Thank you for
your attention

