

Code Administrators Working Group (CAWG) Issues Log

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Issue No:	Description:
5.1	<p>Do the current modification rules adhere to the principles set out in the November letter?</p> <p>(Reminder, these principles were:</p> <ol style="list-style-type: none"> 1) promote inclusive, accessible and effective consultation; 2) be governed by rules and processes that are transparent and easily understood; 3) be administered in an independent and objective fashion; 4) provide rigorous and high quality analysis of the case for and against proposed changes; 5) be cost effective; 6) contain rules and processes that are sufficiently flexible to circumstances that they will always allow for efficient change management; and 7) be delivered in a manner that results in a proportionate regulatory burden).

Code	Current Process	Pro's	Con's
UNC	[Please replace this text with examples of current process(es) you think deliver, or inhibit, those seven principles.]		
BSC	As above		
CUSC	As above		
Other codes	As above		

Preference:

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.1.1	In what areas does each code work well / not so well?

Code	Current Process	Pro's	Con's
UNC	[Please replace this text with examples of areas where you think this code demonstrates best / worst practice]		
BSC	As above		
CUSC	Designed to allow evolution	CUSC parties and some others can submit modifications – therefore a prima-facie opportunity to improve or correct deficiencies	Works up to a point, but commonly a resistance to change
Other codes			

Preference:

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.2	How does small party, new entrant and consumer representation vary across the codes?

Code	Current Process	Pro's	Con's
UNC	Consumer Focus has no voting Panel seats; but can appoint two non-voting representatives. Can raise information provision mods only.		
BSC	Consumer Focus has 2 voting Panel seats, and can raise any kind of mod.		
CUSC	<p>Consumer Focus has 1 voting Panel seat, and can raise any kind of mod.</p> <p>Small parties can raise a mod and be nominated for panel membership and working groups</p> <p>New entrants –(as Small Parties)</p>	<p>Important that the consumer is informed and can influence decision making</p> <p>Opportunity for small parties to be represented</p> <p>As above</p>	<p>In practice high costs of participation may inhibit smaller parties.</p> <p>If new entrants are not relatively large or affiliated to existing players then may find it difficult to find enough support to become a panel member and experience more problems with appointments to key working groups. If small, may also encounter the problems above.</p>
Other codes			

Preference:

Consumer Focus (no comment as outside my experience)

Smaller players and New Entrants

If the need for nominations is adequately publicised and deadlines not too short, then it may be possible to have a more representative mix

Means of implementation:

Custom and practice	X	Mod rules change	X	Licence modification	
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Details:

Maybe worth looking at a mod to set up a better method of publicising the need for nominations to a group with a realistic deadline for nominations which should not be subject to variation

Issue No:	Description:
5.2.1	What aspects of the arrangements do small parties, new entrants and consumer representatives find to be a particular burden?

Code	Current Process	Pro's	Con's
UNC	[Please replace this text with examples of any (governance, rather than market design) problems with this code that you think may inhibit these groups from participation]		
BSC	As above		
CUSC	<p>Small parties (who may or may not be new entrants) may be nominated for participation in working groups in the same way as larger players.</p> <p>Most if not all meetings are held around Warwick or London.</p>		<p>Small and independent parties may have less resource available than larger players – but may be just as keen to contribute. Poor publicity of working group nominations or too short deadlines may mean smaller players (who may not have dedicated staff attached to regulation and governance) may miss out.</p> <p>If a working group process becomes protracted – or has the risk of being so – then smaller players may not have the financial resources to fund a participant.</p> <p>Parties in the North face more expense for travel to London or Warwick area. This may further inhibit these users.</p> <p>Large carbon footprint</p>

	Teleconference facilities offered at most meetings.		Though offered, are rudimentary with those participants dialling-in at a significant disadvantage in debates
Other codes	As above		

Preference:

In order to allow a more representative group, both in relative economic power of parties and geography – the payment of travel expenses should be considered to participants.

Some meetings should move North

Improved Teleconference facilities and more pro-active real-time administration of meetings are required to allow dial-in participants the same opportunity to contribute as those present in the room.

Carbon footprints of meetings will be reduced if effective teleconferencing can be achieved.

Means of implementation:

Custom and practice	X	Mod rules change	X ?	Licence modification	
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Details:

Most of the above are administrative changes – though a move for payment of travel expenses may need to have a mod.

Issue No:	Description:
5.2.2	In which aspects are the codes sufficiently transparent or need to improve?

Code	Current Process	Pro's	Con's
UNC	[Please replace this text with examples]		
BSC			
CUSC			
Other codes			

Preference:

Means of implementation:

Custom and practice		Mod rules change		Licence modification	
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Details:

Issue No:	Description:
5.2.2.1	Should websites conform to agreed standards/principles?

Code	Current Process	Pro's	Con's
UNC	Not subject to external agreed standards / principles. Content is "open-to-all" – passwords not needed to access content.		
BSC	Same as UNC.		
CUSC	Same as UNC.		
Other codes	Not subject to external agreed standards / principles. On most code websites content is "open-to-all", though there are issues around constrained access to the DCUSA website.		

Preference:

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.2.3	Do small parties, new entrants and consumer representatives consider that enough assistance is available to them in order to participate [in code governance and modification processes]?

Code	Current Process	Pro's	Con's
UNC	[Please replace this text with examples]		
BSC			
CUSC	<p>No financial assistance available to participants</p> <p>Much of the business contains a relatively high degree of jargon, much of which, often corresponds with an economist's or other specialist view.</p>	<p>Keeps costs down</p> <p>Specialists can understand each other</p>	<p>Acts as a barrier to smaller players</p> <p>Non –specialists can be lost in the debate</p>
Other codes			

Preference:
Keep it as simple and jargon-free as possible

Means of implementation:				
Custom and practice	X	Mod rules change		Licence modification
Details:				

Issue No:	Description:
5.2.3.1	If further assistance would be helpful [to small parties, new entrants and consumer representatives], in what areas?

Code	Current Process	Pro's	Con's
UNC	Informal assistance from code administrator prior to raising mods (i.e. chat through issues).		
BSC	Informal assistance from code administrator prior to raising mods (i.e. chat through issues). Periodic education seminars for new joiners to industry. Range of information sheets and publications on website. Plain English summary of the code maintained (as code requirement?).		
CUSC	Informal assistance available from NG as administrator. No assistance for expenses	NG does its best to assist – in getting through some of the jargon and understanding underlying principles	NG often overburdened during the process – parties do not feel comfortable about asking 'the obvious' Bar to participation for smaller players
Other codes			

Preference:

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			



Issue No:	Description:
5.3	What role do code administrators play in developing or bringing forward proposals?

Code	Current Process	Pro's	Con's
UNC	JO has drafted changes to the modification rule in line with governance workstream discussion – Party must then formally raise it. JO can request a consent to modify typo's etc.		
BSC	Asks Panel to raise housekeeping mods as needed. Provides informal support to proposers prior to submission (help with framing the issue etc).		
CUSC	NG can not raise mods as administrator but can and does as a CUSC party.		
Other codes			

Preference:

Means of implementation:

Custom and practice		Mod rules change		Licence modification	
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Details:

Issue No:	Description:
5.3.1	Should the Panel's ability to raise proposals be limited to housekeeping and governance?

Code	Current Process	Pro's	Con's
UNC	Panel cannot raise proposal in its own right – requires a 'sponsor'		
BSC	Panel can raise housekeeping mods, plus more material mods in limited circumstances specified within the code (i.e. to cater for changes to Fuel Security Code, the introduction of Euro).		
CUSC	Ambiguous if Panel can raise mods. Power to do so does exist ¹ but unclear in what circumstances it can be exercised.		
Other codes			

Preference:

Means of implementation:

Custom and practice		Mod rules change		Licence modification	
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Details:

¹ Paragraph 8.15.1

Issue No:	Description:
5.4	Who should be responsible for the production of legal text?

Code	Current Process	Pro's	Con's
UNC	The Transporters, who take it in turns.		
BSC	The code administrator, ELEXON.		
CUSC	National Grid.		
Other codes			

Preference:

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.4.1	When should legal text be produced?

Code	Current Process	Pro's	Con's
UNC	If a GT proposal included from the outset, otherwise at panel or Authority request		
BSC	For housekeeping or self evident proposals, during the Report Phase. For other proposals, during the Assessment Procedure.		
CUSC	Prior to the Company consultation.		
Other codes			

Preference:

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.4.1.1	Should legal text be consulted on [before a proposal is sent to the Authority]?

Code	Current Process	Pro's	Con's
UNC	This rarely happens. Often legal text is only produced after an FMR is sent to the Authority, at the Authority's request.		
BSC	In principle, this step is not 100% guaranteed ² . But generally legal text is consulted on at least once (in the Report Phase) and often several times (where a mod has gone to a work group).		
CUSC	If a mod goes to WG, the WG usually agree the legal text. It is then consulted upon during the Company (panel) consultation.		
Other codes			

Preference:

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

² The BSC does provide that the Panel may consult the Authority on whether legal text is needed for a mod, but the Panel has shown no appetite to make such requests, and it is unlikely that the Authority would accede to any such request on any proposal that had a credible chance of being approvable.

Issue No:	Description:
5.4.2	Should legal text be flexible (i.e. a "work in progress") until a decision to approve or reject is made)?

Code	Current Process	Pro's	Con's
UNC	Legal text generally isn't developed during the industry process and is often only provided at the Authority's request after the Panel recommendation. Legal text is effectively flexible up to point of Authority decision.		
BSC	Legal text is flexible up to the point when FMR sent to Authority. After that point it cannot be changed.		
CUSC	Same as BSC		
Other codes	Problems have arisen under DCUSA where changes raised to common area of code, but legal text of each does not recognise the other, even post direction to implement.		

Preference:
Should be flexible

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.5	How long should consultation period be?

Code	Current Process	Pro's	Con's
UNC	Ordinarily 15 working days, can be varied by the panel.		
BSC	Not prescribed within the code. Working practice varies from a few days to a couple of weeks during Definition or Assessment Procedure, normally about a fortnight during Report Phase.		
CUSC	The WG phase incorporating consultation can be no longer than 4 months – unless extension approved, consultation element usually between 3 and 4 weeks. Company consultation usually 2 weeks.		
Other codes			

<p>Preference:</p> <p>See below</p>
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Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.5.1	Should the Panel have discretion over how long the consultation period is for each proposal?

Code	Current Process	Pro's	Con's
UNC	Full discretion. Often ties in with concurrent consultations.		
BSC	Full discretion. Usually varies from a few days to a couple of weeks. Complexity, public holidays and the volume of other work the industry and ELEXON has on may influence this duration.		
CUSC	Full discretion subject to a minimum of 10wd for housekeeping amendments.		
Other codes			

Preference:

If a proposal is very complex – may have a number of WG alternatives – or deal with complicated models then an extended period of consultation may be necessary. It may also be necessary to allow a second WG consultation if the original consultation report is significantly changed by alternatives following the first call. Panel should give weight to the advice of the WG attached to its report in this matter.

Means of implementation:				
Custom and practice		Mod rules change	X	Licence modification
Details:				

Issue No:	Description:
5.6	How should implementation dates be determined?

Code	Current Process	Pro's	Con's
UNC	Can be day after Authority approval. Systems implementation often divorced from mod process – determined by consensus at UK Link committee after direction to implement issued.		
BSC	Determined by Panel prior to an Authority decision. Panel recommendation is generally based on mod group recommendation, which in turn is influenced by the results of industry impact assessments.		
CUSC	Date recommended by NG and included in consultation. Where respondents disagree with NG recommendation, date determined by the Panel.		
Other codes			

Preference:

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.7	Should there be fast-track process for housekeeping / non-contentious modifications?

Code	Current Process	Pro's	Con's
UNC	Consents process available for housekeeping changes. Does not need to be assessed against code objectives.		
BSC	Raised by Panel on ELEXON request, proceeds directly to Report Phase. Recommendation and Ofgem decision made against code objectives.		
CUSC	Where Panel agree a mod is HK, then mod is posted on NG website for minimum 10 business days. HK report drafted and submitted to Ofgem for decision. Licence drafting under CUSC similar to UNC, so consent process possible, but never used in practice.		
Other codes			

Preference:

Always best to have a transparent process which has some degree of debate allowed – though for a piece of pure 'housekeeping' which is not contentious the process could be to publicise it (not just put up on website) allow a short period and move to a simplified adoption process.

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.7.1	What unnecessary process steps could be removed/made conditional on nature of proposal?

Code	Current Process	Pro's	Con's
UNC	[Please replace this text with examples of steps in the mod process you think could be optional or removed (please specify which) for this code]		
BSC	As above		
CUSC	As above		
Other codes	As above		

Preference:

Means of implementation:

Custom and practice		Mod rules change		Licence modification	
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Details:

Issue No:	Description:
5.8	Should current customs and practice be codified?

Code	Current Process	Pro's	Con's
UNC	[Please replace this text with any examples of working practices you think should be codified, or otherwise formalised]		
BSC	As above		
CUSC	As above		
Other codes	As above		

<p>Preference:</p> <p>May be best to do this once best practice is agreed upon.</p>
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Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.9	How can the independence of the code administrator be assured?

Code	Current Process	Pro's	Con's
UNC	Joint Office staff are on secondment from NG, JGA stipulates they should act independently.		
BSC	ELEXON is 100% owned but uncontrolled subsidiary of NG ("at arms length"). Neutral in sense that non-affiliated and not-for-profit, but may be affected by mods insofar as they affect their scope, processes, and credibility.		
CUSC	NG are CUSC party and sole administrator of the CUSC.	NG have all the information and resources to fulfil this role	Though NG at all times do their best to be neutral in all dealings – there are times when they are in a position where they defend NG's position.
Other codes			

<p>Preference:</p> <p>May be better to be an arms length organisation like ELEXON for CUSC also</p>
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Means of implementation:					
Custom and practice		Mod rules change	X	Licence modification	X ?
Details:					



Issue No:	Description:
5.10	Who should 'own' modification proposals during the process?

Code	Current Process	Pro's	Con's
UNC	The proposer		
BSC	'Rights, IPRs and moral rights' assigned to code administrator, ELEXON ³ .		
CUSC	Rights, IPRs and moral rights' assigned to all CUSC parties ⁴		
Other codes			

<p>Preference:</p>

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

³ BSC F2.1.11

⁴ CUSC 8.15.7

Issue No:	Description:
5.11	Should proposers have the right to withdraw proposals?

Code	Current Process	Pro's	Con's
UNC	Allowed, no time constraint.		
BSC	Allowed, subject to time constraint.		
CUSC	Allowed, no time constraint		
Other codes			

<p>Preference:</p>

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.11.1	If proposers should have the right to withdraw proposals, up to what point should this right exist?

Code	Current Process	Pro's	Con's
UNC	Can be withdrawn at any point to submission of FMR to the Authority.		
BSC	Can only be withdrawn up to the point where first presented to Panel ⁵ (for it to consider whether to send to WG or straight to report).		
CUSC	Can be withdrawn at any point.		
Other codes			

Preference:

Means of implementation:

Custom and practice		Mod rules change		Licence modification	
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Details:

⁵ BSC F2.1.12.

Issue No:	Description:
5.12	Are modification processes appropriate for urgent proposals?

Code	Current Process	Pro's	Con's
UNC	[Please replace this text with examples of where you think the urgency procedures could be improved]		
BSC			
CUSC			
Other codes			

Preference:

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.12.1	Should all urgent proposals be subject to a minimum period of consultation?

Code	Current Process	Pro's	Con's
UNC	Urgency timetable is determined by Authority, although fed into by the views of the UNC Panel. No minimum period.		
BSC	Urgency timetable is determined by Authority, although fed into by the views of the BSC Panel.		
CUSC	Urgency timetable is determined by Authority, although fed into by the views of the CUSC Panel.		
Other codes			

Preference:

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.13	Should proposer be able to speak at a panel where a recommendation is to be made on their proposal?

Code	Current Process	Pro's	Con's
UNC	No specific rule – allowed at Panel/Chairs discretion		
BSC	Proposer is allowed to present when mod is raised, but has no guaranteed right to speak when final recommendations are made. Rules appear to allow for the Chair to give permission for floor to speak ⁶ .		
CUSC	As BSC		
Other codes			

<p>Preference:</p> <p>Yes</p>

Means of implementation:				
Custom and practice	X	Mod rules change	X	Licence modification
Details:				

⁶ BSC B4.5.1 http://www.elexon.co.uk/documents/BSC_and_Related_Documents/BSC_-_Live_Version/Section_B_v14.0.pdf

Issue No:	Description:
5.14	How should changes originating from outside the code [i.e. consequential changes that are “driven” by changes to licences, other codes or legislation] be dealt with?

Code	Current Process	Pro’s	Con’s
UNC	Less of an issue as UNC a more holistic code. All material changes must be assessed against relevant objectives and follow normal mods route – changes can be directed by SoS where specific powers to do so.		
BSC	Some major statutory changes may be enacted by Secretary of State (i.e. BETTA). But most changes enacted by normal mods route. Timing varies – sometimes coterminous FMRs and decisions are possible, more often there is a lag as one or more codes “catch up”.		
CUSC	As BSC		
Other codes			

Preference:

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.14.1	Should consequential changes be assessed simply on the basis of consistency rather than assessing them against the relevant code objectives?

Code	Current Process	Pro's	Con's
UNC	Depends on nature of changes. Housekeeping can be dealt with under consents route. More material changes assessed against objs.		
BSC	All mods must be assessed against code objectives.		
CUSC	All mods must be assessed against code objectives.		
Other codes			

Preference:

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.15	Is the membership of modification groups appropriate?

Code	Current Process	Pro's	Con's
UNC	Panel may approve composition. Must be at least 2 Users and 2 GTs. Proposer has right to appoint one individual. Non code Parties may become member by invitation. In practice, open door policy.		
BSC	Selected by Panel upfront from standing lists of volunteers who are considered to have relevant technical expertise. Must have at least five members. Proposer, NG and ELEXON have automatic membership rights. Others can attend, but cannot vote ⁷ . The code compels members to impartiality – this does not apply to attendees.		
CUSC	Selected by Panel upfront from standing lists of volunteers who are considered to have relevant technical expertise. Must have at least five members. Proposer, NG have automatic membership rights. Others can attend, but cannot vote.	Mostly – especially for less contentious or key modifications –this seems to work	For important modifications or those which are likely to be very contentious – not always possible to gain an appropriate width of representation in the WG.

⁷ Although it should be noted that the code appears to envisage that mod groups could conduct business without the need for formalised voting processes, i.e. F2.4.18 '[...] if the Group's terms of reference provide for voting [...]' (which suggests that the need for groups to vote was not considered self-evident when the code went live). In practice, voting does take place to determine recommendations, whether to progress an alternative modification, and to resolve matters where there is no general consensus.

	VOTING in WG	Allows the relative strength of the views of the WG to be passed on in the report	Members of the WG worry that a particular view expressed (emphasised) by voting may be taken subsequently as view of the INDUSTRY. Consequently members often vote according to the interests of their sponsoring organisations – which in most cases will be their employers. This can have quite bizarre outcomes when members seem to vote against, or vote as worse than an unworkable, a piece of work to which they have attached many person- hours of skilled work.
Other codes			

Preference:

Calls for WG nomination should have a fixed method of publicity, which would allow others than those –'in the know' – to know about it. All CUSC parties should be approached to sign up for a text or e-mail alert system when a call is put out. A fixed period should be allowed for responses which should give reasonable time (at least 28 days).

From the list of nominees an election –by e-mail – should take place if the number is more than the optimum for the group.

In case of a tied vote the Panel would decide.

VOTING

The link between how WG members vote for a piece of work in front of them and the wishes of their employers (or sponsors) should be broken. Members should keep to the

merits of the work.

In order to accomplish this, the Authority should be bound not to take into account the views of the WG as representing that of industry in any way.

Means of implementation:

Custom and practice	X	Mod rules change	X	Licence modification	X ?
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Details:

Issue No:	Description:
5.15.1	Should there be greater scope for consultancy support for modification/working groups?

Code	Current Process	Pro's	Con's
UNC	None provided centrally – if desired, must be funded by the party that wants it.		
BSC	Provided on a case-by-case basis, usually only for high materiality or complex mods. ELEXON would seek Panel authorisation to spend funds.		
CUSC	Does not seem to be anything in the rules to prevent such support being taken on. However do not recall any occasions when such support has been employed. Unclear who would pay.		
Other codes			

<p>Preference:</p> <p>Yes</p>

Means of implementation:			
Custom and practice		Mod rules change	Licence modification
Details:			

Issue No:	Description:
5.16	Should alternative proposals be treated in a standard manner across all codes?

Code	Current Process	Pro's	Con's
UNC	Uncapped number of alternatives allowed. Do not require majority support to raise. Alts must be raised within defined time-window of 5 days from original going out to consultation		
BSC	Only one alternative allowed – if more competing concepts then further mods must be raised. WG by majority has to consider the alt better than the original if they are to develop it. Alt can be raised at any time whilst still with WG.		
CUSC	Uncapped number of alternatives allowed. Respondents can only raise consultation alternative requests during the WG consultation and WG has complete discretion whether a request is formally taken forward as an alternative – WG chair has an over-riding discretion.		
Other codes			

Preference:

Means of implementation:				
Custom and practice		Mod rules change		Licence modification
Details:				

Issue No:	Description:
5.17	Should greater rationale/detail accompany panel recommendations?

Code	Current Process	Pro's	Con's
UNC	Both licence and rules require 'factors which justify' the Panel's recommendation – reference to Relevant Objectives not stipulated.		
BSC	Obligation under rules is specifically upon the Modification Group rather than Panel to justify opinion against relevant objectives ⁸ .		
CUSC	Only details of the outcome of the recommendation vote need to be provided in the FMR. Panel members can submit views as panel members during the consultation. This rarely happens.		
Other codes			

Preference:

Means of implementation:

Custom and practice		Mod rules change		Licence modification	
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Details:

⁸ See Clause F 2.6.4