

ASSOCIATION OF WATERWAYS CRUISING CLUBS

Boat Licence Fees Consultation, April 2008 – March 2011

Overview

The consultation is concerned with the determination of pricing for BW boat licence fees. It is not about the structure of the licence fee system. Neither is it about the structure of BW itself and its funding. Both aspects are clearly related to this consultation and the AWCC expects to be consulted and have its say on these matters on a later occasion.

The Previous Consultation. Whilst we will attempt to stick strictly to the matter of this consultation, the previous consultations in 2005, and the follow up 'white paper', addressed some matters of the licence fee system that remain unresolved and which could affect the prices charged for licences more generally. We refer specifically to the anomalies presented by continuous cruising and aspects of the definitions of business and private use. We would ask you to review our letters addressed to Eugene Baston on 4 Oct 2005 and 24 Jan 2006 (copied at Annex) and specifically to the comments made on licences for business and continuous cruising users. We again emphasise the need for fairness for all users.

Recent History. It is worth recording the AWCC perception of how we got to where we are. Almost a year ago, I led a convoy of over thirty small boats up the River Thames from the West India Docks to protest to Parliament about the cuts to the BW (and EA) grant. The relations between BW and the Government have since improved. A new Waterways Minister has been appointed, but the grant has not been restored. Recent discussion between heads of user organisations and the Minister show him to be much more sympathetic, but unable to deliver levels of funding considered necessary for proper maintenance. Furthermore, it is an open secret that DEFRA has pointed quite firmly to licence increases of the current proposed magnitude to both BW and the EA. These increases are comparable with the above inflation increases applied to rail fares. Hence, by default it must be regarded as "Government policy". Hence, the current consultation could be regarded as not valid as there are no real options in the application of this policy. The dilemma for BW is how to fairly apply the policy and retain the goodwill of the average user, so freely given during last winter's campaign.

Licence Income and Maintenance. Many ordinary boaters will question whether their efforts last winter were well directed when they appear to have been given a kick in the teeth by their Navigation Authority. However, licence fees remain a relatively small part of the total BW incomes and the increases will contribute a similar relatively small proportion to the maintenance budget shortfall. Hence, it must be concluded that the majority of the maintenance budget shortfall has to be found from other sources and is a subject outside this consultation.

Licence Fees are a Tax! The AWCC accepts that the Framework Document that accompanied the creation of BW as a Public Corporation in 1999 was a major step forward in the organisation of BW and the inland waterways. It required BW to act commercially, which could be interpreted as obtaining what the market will bear for licence fees, as well as other charges. Our 2005 paper suggested that market pricing should be applied by the industry in general to moorings, but that it was much more difficult to apply to licence fees. We have argued on many occasions that as currently structured, licence fees are a tax for using the waterways – they are not and can never

be under the current system a fair and proportional device for recovering an individual's consumption of that particular good. Hence, the licence fee must be seen to be a fair tax and primarily related to the individual's ability to pay.

Ability to Pay. Under the current system, a boater may choose how much tax he is willing to pay when he selects the size of his boat. Our concern is that long-term supporters of the waterways (who we largely represent) are unlikely to change a prized possession when they retire and find themselves on a smaller fixed pension income. Hence, greater than inflation pricing increases put an enormous pressure on these long term supporters of the waterways when on fixed retirement income. We would wish to challenge the statement in paragraph 4.2.9 of the consultation document, where it is said, "In practice it would be very difficult to ensure that any concession was granted only to qualifying owners". The AWCC wishes to propose a loyalty bonus in the form of a substantial licence discount for boaters who can show that they have personally held a BW licence continuously for, say, twenty years. The emphasis should be placed on the individual to apply. Confirmation could be done easily from BW records. Such a loyalty bonus would promote a substantial amount of goodwill among long-term canal users.

However, a fundamental unfairness is that boaters are taxed disproportionately, because they are required to pay this additional tax (a licence fee), and the higher than inflation increases. Other users, e.g. walker and cyclists pay via their general taxation, because there is no other way of sensibly charging them for what they use. This is the argument for better grant in aid, which we will pursue no further now. Taken with the increased tax on diesel that boaters will suffer in the years to come, it represents an unfair burden of taxation on the average boater.

Boaters Views

Ring Fencing of Funds. There is a growing feeling within the boating community that if they are to be caused to pay proportionally more via licence fees, then they should be able to see specifically what their money is used for and have some say in the decisions made about its use. In other words, the revenue raised by licence fees should be ring fenced and allocated to projects that specifically benefit boaters, i.e. to be spent specifically on the track. BWAF would be a suitable vehicle to pursue and develop this idea.

Value for Money. There is also a growing feeling that BW is not getting value for money in their use of contractors. Many boaters comment about inept behaviour of contractors' staff on the cut because such people appear to be either insufficiently experienced in the work, improperly instructed in it or inadequately monitored on its performance. This evidence may be anecdotal, but it does not help to promote boater confidence if they believe BW is wasting their money on manpower substitution and inadequate job specification and monitoring. BW should be prepared to demonstrated better performance in this respect and also to make greater efforts to use volunteers from the band of well qualified and experienced boaters, as is in the case of the administration of the Boat Safety Scheme. AWCC could be prepared to assist in the monitoring of contractor performance through its member clubs. Again, all these ideas may be discussed and developed via BWAF.

Licence Evasion. It is clear that BW has stepped up its activities to reduce licence evasion. However, the AWCC continues to get comments from its members about the number of unlicensed boats seen out on the system. Again this is a matter of

developing complete confidence within the law-abiding community. BW needs to demonstrate improved performance in tackling evasion, particularly in the difficult areas and not just within club moorings and marinas.

Specific Comments on the BW Proposals

Proposal 1. AWCC agrees with this proposal. We have in the past supported this approach and recommended its use to the EA. The use of indices assessed by HM Treasury together with an efficiency discount, is a quick and fair method of assessing inflationary increases, widely used throughout central government.

Proposal 2. The AWCC believes that there is a continuing place for prompt payment discounts applied to licence fees, as it encourages early payment from those who have the cash available and provides BW with an improved positive cash flow, compared with monthly payments. Most boaters will opt for a monthly payment if the discount is removed. The discount rate should be at least equal to a good building society savings account rate. For example, one of our founding clubs offers a 6.8% discount for annual payment of mooring fees compared with the monthly standing order rate. The discount increases to 9.7% compared with the monthly cash rate. There is a 15% penalty charge for late payment compared with the monthly standing order rate. This structured pricing system works well and results in about one third of club members opting for annual payments and two thirds opting for monthly standing order payments. We recommend that the BW prompt payment discount should continue into the future and be set at 6% minimum.

Proposal 3. The AWCC is content with this proposal in that BW should not go back on its previous three-year undertaking with the trade. We would expect discussion on the post 2010 rates to take place at least two years before projected implementation.

Proposal 4. It is clear to AWCC that some small business boats are effectively permanently moored on popular sites. Whilst they may add colour and interest and provide some service to boaters, e.g. rope fenders, they are viewed by some as blocking prime moorings. The discount system is complex, but it is considered that the appropriate licence fee should be more than a private boat.

Proposal 5. We are content with this proposal.

Proposal 6. We are content with this proposal, but a future review of definitions may be useful.

Proposal 7. Clearly from the foregoing discussion, the AWCC is unhappy with this proposal and would prefer that the simple approach based on the inflation formula, agreed in 2002, be retained as the fairest solution. However, we accept that BW has been given very little room for manoeuvre by the Government. We believe that the economic assumptions associated with this proposal are dangerous, misleading and even irrelevant to the proposal. Whilst we would all care not to think about an economic recession, should it happen, the increase in numbers of marginal boaters leaving boating will probably be quite rapid, as seen in the early 1990s. A measure of this is that the price of second hand boats took some years to recover to the post recession levels. Even in recession, the BW maintenance costs are unlikely to fall in line with a decline in licence fee income and are of themselves aligned with the indices previously used in the licence fee increases. Doubling licence fees would do little to correct the situation. It

emphasises the situation that with static grant and moderate to high increases in the licence fees, the solution to the maintenance budget problem has to lie elsewhere. Our conclusion is that both BW and the user community should jointly put all their efforts into ensuring that BW is provided with an appropriate structure to maximise their trading and third party income, as there is seemingly nowhere else for the money to come from.

Proposal 8. The AWCC clearly agrees with the need to keep matters of finance and income under urgent review. We expect this to be done under BW's "openness" policy via BWAFF and the other national and regional fora, where we expect BW to be responsive to our input. We will not accept an additional increase in 2009 and 2010 as a result of poor performance, e.g. due to economic downturn. We expect the licensing system to be reviewed, together with structure of BW, where we would expect formal consultation.

Summary and Conclusions

The AWCC is disappointed that BW found it necessary to ask for a large increase in licence fees, but views it as a need to implement tacit Government policy. We recommend that BW must try very hard to retain the confidence of the average boater and particularly those long-term inland waterways enthusiasts who protested so effectively a year ago about the cut in Government grant. BW is in danger of squandering the goodwill of waterway enthusiasts over the years, which by their own physical efforts have contributed to the current waterways scene. We regard the tax burden on boaters as now being unfairly high and we ask the BW Board members to make this representation to the Government. We have made some detailed recommendation on how to ameliorate the affects of licence fee increases, such as a personal loyalty bonus, and what else BW should do to retain the confidence of boaters, in the above paper. We conclude that increasing licence fees is not the only answer to shortfalls in maintenance budget and we urge BW to work with us on the wider aspects of finance and structure to ensure a positive future for the inland waterways and all its users.

David Pearce
National Chairman
Association of Waterways Cruising Clubs

7 January 2008

ANNEX A – Letters from AWCC on the Previous Consultation

Eugene Baston
External Relations Manager
British Waterways
Willow Grange
Church Road
Watford
WD17 4QA

4 October 2005

Dear Eugene,

Licence Consultation

Please find attached the response from the AWCC, which is sent to you a few days late, as agreed when we last met. I would like to thank you for the constructive way in which you discussed the matter with me and I hope that you are not too disappointed with the outcome.

Yours sincerely,

David Pearce
National Chairman

FEE STRUCTURE FOR BOAT LICENCES IN ENGLAND AND WALES 2005

OVERALL OBJECTIVE OF THE BRITISH WATERWAYS PAPER.

The BW Consultation Paper presents a complex argument, which may be confusing to the average boater as it seeks to achieve diverse aims. We think these aims are:

- To correct the BW process in the light of the Ombudsman's decision on multiple ownership and to mitigate the resulting impact on income;
- To create a new framework for "licensing" with economic evidence at its heart;
- To consult on a range of proposed new arrangements.

It is our view that the Consultation Paper should have concentrated on the first objective as the Paper in its current form will only serve to detract from the argument presented to resolve the problem and may antagonise the average boater. The Consultation Paper also assumes an understanding of economic theory that most boaters do not have and which will also produce a confused and emotive response. The resulting "White Paper" from BW should attempt greater clarity in resolving the main aim.

Similarly, the questionnaire at the end of the Consultation Paper adds confusion and will, in our view, prompt poor responses through misunderstanding. For example, Question 1 is basically asking, 'do you want to continue the current system (which provides a "contribution to BW fixed costs"), or do you want a market based system'? Our answer may appear to be YES, because we argue against a market based system, but some people may answer NO because they wish to see syndicate boats charged a higher rate! Both can be seen as consistently valid answers from the same stand-point, but with the obvious difficulty in analysis. Hence, we decline to provide a YES/NO answer to this question and regard other questions as lacking in clarity.

The AWCC would not necessarily wish to class the consultation as totally invalid, but we do suggest that bald answers to the questionnaire, without additional comments are less than fully valid. Our full arguments are, therefore, presented in the following paper.

SUMMARY OF AWCC VIEWS

The AWCC present the following eight main recommendations:

- “Intensity of use” (or “to use intensively”). Any use of this term is considered to relate directly to a “contribution to fixed cost” economic system, because the associated arguments are ALL related to **COST**.
- “Willingness to pay”. Any system based on willingness to pay is by definition related to a market set **PRICE**. We have already rejected this approach, together with the arguments based on an inappropriate and confusing combination of COST and PRICE put forward in the Consultation Paper. Willingness to pay is judged by the extra amount at the margin that a consumer is willing to pay in order to buy the service or commodity. It is a personal assessment that, when related to the entire group, represents the elasticity of demand. It is NOT the same as ability to pay.

Economic Evidence. We also consider that the economic evidence on income offered in the Consultation Paper to be unreliable in that it bears no direct relationship to “willingness to pay”. A marginal boater on a fixed small income may be unwilling and unable to pay much more for his licence, despite a desire to continue his, probably, sole hobby. However, a boater in the highest income bracket may be equally unwilling, if able to pay, because of other competing demand on his income. He may equally well be a marginal boater and his patronage lost for a relatively small increase.

Length of boat has always been considered to be a crude measure of ability to pay. It should be pointed out that the measure is even less accurate today, than in years gone by, because there are more well fitted out boats in use, i.e. a full length 70’ boat may be a fully fitted luxury boat, or it may be a traditional boat with no modern fittings at all. Each type would represent a very different user. However, length as a measure by which people are assessed for their licence charge has the big advantage that owners know in advance what they are undertaking from a cost point of view, together with any discounts that may apply.

It should be noted that the latest collected evidence (not offered in the Consultation Paper) on the elasticity of demand for boating is now at least ten years old, so it must be concluded that no one knows what it really is today.

Licences or Tolls and the Development of the Waterways? A system of contribution to fixed cost in practice means one of two things, either a licensing system for user access, or one by which they are charged a toll for their individual usage. Whilst the latter may promote elements of fairness – it is used for leisure boating in other parts of the world, e.g. Sweden - we regard it as totally impractical in the UK, as it would be difficult to administer and police, and probably cost much more. Also, it may be argued that it was a toll based system that heralded the rundown of the inland waterways in the 50s and 60s. This is an emotive argument not necessarily applicable to modern day leisure usage, but it is an argument put forward by those users who wish to encourage the even and complete cruising of our waterways system that is expanding now through restoration. It is a belief by some (maybe irrational) that a toll system would halt restoration and possibly again reduce the waterways system. We would advise BW not to go down this route if they are to avoid antagonising this substantial group of boaters. It is the view of the AWCC that a licence based system is the approach acceptable to the vast majority of private pleasure boaters.

Boating Costs and Economic Priorities. For most boaters, the cost of boating ranges as follows:

- Cost of mooring (probably most expensive);
- Cost of maintenance;
- Licence charge;
- Day to day running costs, e.g. fuel and compulsory third party insurance (probably least expensive).

Most economists will argue that a licence charge is the same as a tax. Most boaters will see it in the same light. No one is willing to pay extra tax; some may be able to pay more than others. Most people will rationalise a marginal tax increase if it is seen as both -

- A modest and fair increase that is related to their ability to pay, and
- Relatively low in terms of their other related costs.

Hence, it is our view that the licence charge should remain modest for all private pleasure boaters and on average less than mooring cost, with social discounts applied where appropriate.

Social, Environmental and Heritage. The current discount system that addresses social, environmental and heritage issues is consistent with a “contribution to fixed cost”, i.e. licensing system and we are in general in agreement with it. However, it could be enhanced to reflect more the ability to pay this tax of the very wide range of users. For instance, we would recommend a pensioners discount. The constant gripe that we get from our members is the inability to afford their beloved boating pastime when they retire and are on relatively small fixed income.

Moorings are Different! The price of moorings is a rather different matter because there is choice for boaters and competition in the market place forces (or should force) a price cap. We accept that it is not a perfect market situation and look for future improvements to the industry structure from our Public Corporation!

Moorings may be provided by BW (and BWML), by a commercial marina, or via a self help group such as an AWCC club. The choice is relatively broad and the boaters may choose the level of facilities and price that best suits them.

However, there is a potential conflict of interest as BW is also the regulator for the industry as well as being one of the arms of the competitive force. Most large companies now have procedures for dealing with conflict of interest in their various roles and we would recommend due diligence in the execution of this aspect. However, we are encouraged by the way that BWML has evolved as an “arms length” entity, but we suggest that this aspect needs constant and vigorous review at Board level. The lesson that BW should learn from the BWML situation is to have meaningful dialogue with the interested parties and take note of what they have to say in good time. Our final say on the matter (as has been said before) is to request practical help for self help groups, such as ours, in order to demonstrate a willingness to keep down boating costs and improve industry structure.

THE SPECIFIC QUESTIONS

Multiple Ownership Users. The Ombudsman’s decision on unfairness (Case 5 in his current summary report) was apparently based on the lack of clarity in the definition of which multi ownership users should and which should not pay the business rate of licence. Given the lack of clarity, fairness could only be resolved if all paid the lower rate, he ruled. He did not say that there should not be a higher business rate applicable to multiple owners! A universal view appears to be that any group of people who buy a boat to share between them, which is both expensive and well fitted AND employ or are part of a commercial syndicate that take profit from the running of that boat or boats as a business, should pay a full business rate of licence. We support this view. The concept of “business” in this case is no different to hire craft or timeshare craft. The Consultation Paper should have had resolving the problem of properly defining this group at its heart and we leave it as an open question still to be addressed and submitted for consultation.

Informal multiple ownership is on the increase because of the increasing cost of boating and because of the perceived shortage of moorings. Where this is informal and not part of a profit taking business, we believe that it should NOT be subjected to a business rate. For example, most boaters have to employ a suitably qualified trade person to do engine repairs. Employment of a professional person to help organise the group should be viewed in a similar light. For the want of definition, we would wish to see a larger number than that proposed in the Consultation Paper, but we would wish this to be addressed as part of the improved definition referred to above.

The VAT Threshold Connection. The formal link to the VAT threshold described at para. 4.6 of the Consultation Paper is supported as providing a sensible link and aiding clarity and fairness for those businesses entitled to a small business discount. However, the discount should only be applicable to relevant businesses that demonstrate a direct link to the heritage or current operation of the inland waterways.

Continuous Cruisers. The matter of what is fair for continuous cruisers is really a side issue to the main issue as discussed above. The proposal put forward in the Consultation Paper is rejected, because it is blatantly unfair for the genuine continuous cruiser. We support such cruisers, who operate within their Guidance Notes, as all cruising of the system is good for us all, BW included. The “non-genuine continuous cruisers” should be tackled through the mooring payment system for any abuse of that system. Even so, the latter must not be seen as oppressive pursuance!

Business or Higher? In our view, there is nothing wrong with the current name for the two bands. "Business" rate seems to fairly describe the notion of profit taking and what the differential is all about and we recommend that it is retained.

Fairness in the Round. There is a substantial feeling among boaters that they are over "taxed" on their use of the waterways, whereas all other users are lightly taxed. We appreciate that the argument for a continuing Government Grant-in-Aid is that this provides the "others" contribution to fixed costs. We ask that the Board of BW continue to press this point with the Government as a substantial argument for maintaining the grant.

Wider Consultation. We think that the issues described in our response will arise soon within the Environment Agency as their Transport and Works Act Order comes to fruition and we recommend that BW have dialogue with them in order to achieve a harmonised licensing and registration system.

Conclusions. Our overall conclusions are that the Paper should be simplified. It should concentrate on the main issue and avoid any attempt to radically change the structure of the licensing system, which is basically fair and easy and cheap to administer and police.

David Pearce
National Chairman

September 2005

Eugene Baston
External Relations Manager
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Willow Grange
Church Road
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24 January 2006

Dear Eugene,

Licence White Paper Consultation

This letter is to confirm, from the AWCC, the various comments made verbally on the licensing White Paper.

Firstly, nothing in the revisions made to the former draft that are contained within the White Paper has caused us to change our view expressed in detail in our original comment, dated 4 Oct 05. We recommend that you reconsider these comments.

We welcome your reconsideration of continuous cruisers, but emphasise that the primary objective is still to deal with the problem of definition as a result of the Ombudsman's ruling. It is our view that the definition is still unsatisfactory and needs to be reconsidered.

We emphasise the principle of fairness described in our original paper in terms of the difference between "Business" and "Private" users and urge you to improve your definition so that the situation created is seen to be "fair" and less likely to be challenged in law. We repeat our view that these terms should be retained because they encapsulate the basic reason for having the two different rates.

We appreciate your assurance that no one in a wider family sharing situation would be challenged by BW under the proposed arrangements, as long as one of the members signs up to being the normal keeper. However, there are those of our members in this situation that find the assurance unsatisfactory and require greater clarity in the definition – hence our recommendation.

You will be aware that the law concerning the civil rights of partners has recently changed.

You should be aware that the vast majority of our members are family boaters in a social situation, i.e. members of a club, where the sharing of boating facilities is fundamental. A minority of boats are owned by less conventional "family" groups, but our arguments apply equally to all. The principle of fairness is

that all such members who may register a normal keeper should pay a lower (Private) rate, because none of them are involved in profit making business.

Finally, we would comment that the ultimate unfairness would be if the higher (Business) rate was abandoned and all those mentioned about would consequently have to pay proportionally more. We urge you to get this right now and to save us all the cost of further complaint and litigation.

Yours sincerely,

David Pearce
National Chairman