

British Waterways Boat Licence Structure Review

British Waterways has recently been reviewing its licence fee structure. The original proposals included higher charges for continuous cruisers and shared ownership boats. Following representations from IWA and others, British Waterways decided not to charge higher fees for continuous cruisers. However, British Waterways' revised proposals still include higher charges for shared ownership boats. IWA continues to campaign against this. Details of the proposals and IWA's opinions follow.

British Waterways' First Consultation Proposals

In December 2004, the Waterway Ombudsman concluded that British Waterways' boat licence terms and conditions were unfair in respect of the differential charges made for shared ownership boats. Under the 2004/5 terms, boats that were managed by professional boat share companies were subject to the business licence whilst those that were privately managed were subject to the lower priced private licence. In his detailed report, the Ombudsman concluded that BW was not sufficiently clear on the criteria it applied in setting differential rates.

BW's response was to refund the difference between private and business licence fees for all commercially managed shared boats. Subsequently BW announced that it would review the licence structure in the light of the Ombudsman's findings. The review proposed:

- The renaming of the two main licence fee categories from 'business' and 'private pleasure boat' to 'higher rate' and 'base rate' respectively.
- The proposed reclassification of shared ownership and multi user boats, and possible reclassification of continuously cruising boats, into the higher rate licence category.
- Replacement of the threshold for small business turnover discount with a VAT registration criterion.

IWA's Response to the First Consultation

IWA's Navigation Committee sought, listened to and debated at length, views from members and others concerning British Waterways' consultation on its boat licence structure review. The committee also considered further supplementary notes provided by British Waterways for meetings with user groups and an attachment, drawn from BW's consultants', Oxera, report 'Economic theory of price discrimination'.

The Association submitted its response to BW's initial consultation in September 2005, and explained in detail why it found the consultation document and its additional notes most unsatisfactory. The outline of the Association's response was as follows:

- IWA considers the consultation exercise to have been a knee-jerk reaction to the result of the Ombudsman's recent Annual Report 'case No 5', and has disregarded issues raised by this Association since the last review, such as heritage boats.
- IWA considers the background to the consultation to be on weak ground and British Waterways appears to have interpreted previously unpublished statistics in an inappropriate way, drawing conclusions from them that cannot be substantiated.
- The questionnaire at the end of the consultation paper presents questions that can be interpreted in two ways, or offers loaded questions that point to the result British Waterways seeks to achieve. That does not offer the basis for balance and clarity.
- IWA disagrees with the application of economic theory and feels that Oxera's interpretation was unreliable.

- IWA referred to the 2002 consultation and felt that no valid case had been made to move away from the conclusion of that review.
- The Association is opposed to British Waterways' proposals to move to a system of higher charges for those craft that use the system more intensively. The Waterways Ombudsman specifically stated that he did not consider such a proposition was justified, calling on British Waterways' own evidence when it firmly rejected that approach in Consultation Update of 1st August 2002.
- The Association considers that an annual private pleasure craft licence provides access to the inland waterways network for 365 days in each year. Whether a boater chooses to cruise or not every day is their personal choice. All have an annual licence that entitles them to do so if they wish. On these grounds, IWA supports Continuous Cruisers who operate within the terms of the agreed guidance notes. Dealing with 'continuous moorers' is a separate policing issue.
- With respect to shared ownership boats, the Waterways Ombudsman was clear in his report that if such boats were used for business purposes, then there was nothing unfair in licensing them accordingly. However, if they were used solely for 'private use' then the private pleasure craft licence rates should apply.
- The phrase 'continuous cruiser' has caused considerable anguish to waterway user groups and British Waterways in the past. There seems to be general acceptance that there are generally two types of 'continuous cruiser' - those who genuinely intend to continuously travel around the inland waterways; and those who live aboard their vessel as a means of alternative accommodation and who tend to stay in one area, for which the term 'continuous moorer' might be more appropriate. IWA believes that British Waterways should concentrate on the policing of those overstaying permitted times on moorings. IWA is opposed to the introduction of the proposed higher charges for continuous cruisers.
- IWA agrees that boats operated for charitable purposes, and heritage boats used for cargo carrying, should pay a lower rate of licence.
- IWA would welcome an uplift to the new VAT threshold of £60,000 as the criterion for eligibility for the 50% discount on the business rate, but does not agree that this should be directly linked to VAT registration. Many small businesses, such as boat based coal operators, could lose out if they registered for VAT when their turnover was well below the VAT threshold. IWA does, however, agree that the threshold for discount for small business turnover should be related to the threshold for VAT registration, but VAT registration itself should not be the arbiter for claiming the discount.
- In summary, IWA feels that British Waterways' initial consultation exercise was flawed. The Association is concerned that the consultation appears to be driven by the Waterways Ombudsman's decision on shared ownership boats, and therefore does not reflect on the wider opportunities to get more people to take up boating, as stated by Robin Evans to be British Waterways' aim. Neither did the consultation consider the wider interests of the development and retention of the heritage of the inland waterways and the opportunities for harmonisation with other navigation authorities. The Association suggested that British Waterways should follow the Waterways Ombudsman's recommendation to ensure that in future there is no ambiguity when defining licence terms.

British Waterways' Second Consultation

As a result of the first consultation, British Waterways recognised that, with the exception of the Association of Pleasure Craft Operators, all groups were uncomfortable with the propositions put forward. British Waterways said that it understood most of the user groups' concerns, but still needed to clarify the basis on which it charges for boat licences following

the ruling by the Waterways Ombudsman. As a result of the consultation, British Waterways accepted that continuous cruisers are too diverse a group to be characterised accurately by uniform usage and price sensitivity assumptions. British Waterways, therefore, decided not to determine licence fees by reference to whether a boat has a home mooring or not.

For licensing purposes, British Waterways' revised proposals are that a boat will be defined as one of the following:

a) Sole or family user self-drive pleasure boat

These are boats where rights to use throughout the period of the licence are confined to a single household. This would not preclude permitting others to use the boat on an occasional and informal basis. It does not include boats that are for hire or reward.

'Right to use' means rights arising either from ownership of the boat or from any contract or hire or any business or similar formal arrangement regulating or permitting use.

b) Multi-user self-drive pleasure boat

These are boats where the right to use is held by persons living in more than one household. They include boats let for hire or reward.

c) Passenger-carrying boats

Boats used for hire or reward including trip boats, hotel boats and restaurant boats.

d) Trading craft (low turnover)

e) Trading craft (high turnover)

These are craft used for one of the following purposes:

- Running a shop, store, workshop or office
- Cargo carrying (other than by freight vessels operated as part of a marine freight business under British Waterways' Freight Vessel conditions).

It is proposed that there will be two levels of licence fee, lower and higher, with differentials as at present for boat length within each. The higher level will be 2.47 times the lower rate. These rates will be the same as for the current 'private' and 'business' categories, adjusted annually by the agreed formula reflecting cost inflation.

British Waterways believes that it is possible to make broad assumptions about price sensitivity for each of the above groups that are sufficient to justify allocating categories A and D into the lower price group and categories B, C and E into the high price category.

IWA's Response to the Second Consultation

On 9th January 2006, IWA responded to the revised proposals. The outline of the Association's response is as follows:

- IWA is pleased that British Waterways has revised its attitude towards continuous cruisers but concerned that the revised consultation document has not taken sufficient account of comments from IWA and other user groups.
- IWA reiterated its complete opposition to the concept of 'cost causation' as a factor in pricing. IWA believes that such an approach is inappropriate, since often the marginal costs of extra usage are defrayed by the additional benefits of boats clearing the channel, attracting members of the public and providing opportunities for BW to gain additional income, or from facilities being monitored by users. IWA feels that a 'fair apportionment of total costs' is a more appropriate mechanism. The Association does not agree with British Waterways' proposals to move to a system of higher charges for those craft that use the system more intensively. The initial consultation has provided evidence of support and preference from almost all user groups for a licence not related to intensity of use. The Waterways Ombudsman specifically stated that he did not consider such a proposition was justified, calling on British Waterways' own evidence when it firmly rejected that approach in its Consultation Update of 1st August 2002.
- British Waterways has seemingly taken no notice of IWA's earlier criticisms of the Ramsey theory. The Association considers that the economic theory provided as the basis of the case for change has been misused. British Waterways is a public

corporation. It is in the position of a monopoly supplier of the waterway network for which it has responsibility. The 'Ramsey Conditions' cannot be applied since it will never be possible to create a fair system of access charging on a pseudo competitive market. Therefore, the requirement is for a fair contribution towards the fixed costs, and not one based on market conditions.

- Moreover, the revised documents have not heeded IWA's advice against changing titles from private and business to higher and lower rate. Those who 'profit' from running businesses on the waterways, or those using them for personal business purposes, should accept their correct apportionment of the costs. With respect to shared ownership boats, the Waterways Ombudsman was clear in his report that if such boats were used for business purposes, then there was nothing unfair in licensing them accordingly. However, if they were used solely for 'private use' then the private pleasure craft licence rates should apply.
- Under the revised proposals, shared ownership boats for 'private' use will still be charged a higher rate on the basis of higher usage despite the fact that British Waterways has now rejected the theory that continuous cruisers should be charged a higher rate on the basis of higher usage. IWA believes that a licence should permit a boat to cruise the system for 365 days a year. Whether a boat is a sole or family user self-drive pleasure boat, or a multi-user self-drive private pleasure boat, it can be used for up to 365 days per year. How much it is used is a matter of choice.
- Whether a boat is a sole or family user self-drive pleasure boat, or a multi-user self-drive pleasure boat, does not necessarily correlate to usage. A boat shared between a large number of owners may use the waterways more but a boat shared between, say, two owners, could be used little more than a sole or family user self-drive pleasure boat, as such a small group of users might for the most part go boating together.
- Two or more individuals (related or not) each with their own incomes may jointly own a boat. If they live in the same household they pay a lower rate licence, yet if they live in separate households they pay a higher rate licence. There is no evidence to suggest that two individuals living in separate households will use the waterways more than two individuals living in the same household. Regarding price sensitivity, with two or more homes to support it is likely that the owners paying the higher licence have the greatest degree of sensitivity.
- IWA disagrees with the argument that price sensitivity is lower where several households share the licence fee, or, in the case of businesses, the cost can be passed on to customers. It is those who are less able to afford the full licence fee without sharing the cost who are likely to use a multi-user boat. Previously, only shared ownership boats using a management company were charged a higher rate. Following the Ombudsman's decision, all shared ownership boats were treated equally and none were charged a higher rate. The initial consultation document proposed only charging a higher rate for shared ownership boats where the boat is owned by more than three owners. The revised proposals subject all multi-user self-drive pleasure boats to the higher charge, which could be seen as a method for generating additional income by subjecting more boats to the higher charge. Therefore, the difference between the higher and the lower rate could be smaller, by reducing the higher rate.
- The consultation was sent directly to all respondents to the consultation. However, those with shared ownership boats with three owners or less were not affected by the original proposals and therefore might not have responded but will be affected by the revised proposals. IWA suggested that they should be consulted on the revisions.