



FINAL CONCLUSIONS FROM CONSULTATION PROCESS

12 May 2006

This long and difficult consultation followed a ruling by the Ombudsman in December 2004 that BW's licence terms and conditions were unfair to an owner of a share in a boat managed by a commercial company.

BW commissioned advice from a leading economics consultancy to help it develop a clearer basis for price differentials in boat licensing. We published resultant proposals for consultation in summer 2005. Following largely negative feedback, a revised 'white paper' was published for further consultation in November '05. We have now completed our review of the feedback to the second stage, and have held further informal discussions with national user groups.

Appendix 1 summarises very briefly the key points in the consultation's evolution

Our conclusions are as follows:

1. There is no satisfactory way of implementing a system that depends on BW knowing who owns or uses the boat – it is impractical to validate this.
2. The amount of use that a boat makes of the waterway would be a fair and legitimate method of price discrimination, but without major investment in new systems/technology, it is not feasible for the short and medium terms. We will work with the Environment Agency to develop outline proposals for consultation on possibilities for a national boat licensing system.
3. The existing higher price for a business licence is a fair means of maximising the contribution to BW's costs without leading to loss of consumer welfare.
4. To resolve the confusion over the licence requirement for 'hybrid' boats that straddle the "private" v. "business" classification, we conclude that the status of the **licence applicant** should determine the licence category:
 - a) if the joint owners of a boat are able and content to nominate one of their number as its **lawful keeper** for British Waterways' purposes, then BW will licence it as a private boat. The responsibilities of the lawful keeper are to pay the licence fee and ensure full understanding and compliance with licence terms and conditions at all times, regardless of who is using the boat.
 - b) where the company contract does not permit this, or where the joint owners choose to look to the company for administration and maintenance services, the boat should be treated for licensing purposes as part of a business.
 - c) If it comes to BW's attention that a private individual is licensing multiple boats, it may be presumed that they are acting as a business.

We believe that this solution is fair in that groups of owners will self-select on the basis of their dependence on the commercial boat share company. This company is always responsible for selling the initial shares in the boat and for managing it initially. Its operation during this period is similar to that of a traditional hire company. In some cases the individual share owners over time form a strong bond and, depending on their contract with the company, may take over greater responsibility for the boat's operation and maintenance. In other words, they behave more like private boat owners.

5. Boats operated by companies or organisations for hire or reward or commercial timeshare will continue to require a business licence. This includes local authorities, social clubs and charities as set out in the existing terms and conditions. There will be no changes to the current arrangement for charity discounts or to conditions for business licences.
6. For all new licence applications, a maximum of two individuals' names will be accepted as registered keepers for any single boat. If two names are registered, both carry equal legal responsibility for compliance with licence terms and conditions.
7. Our existing pricing of licences for businesses operating boats for cargo carrying, trading as a shop or other purposes non-leisure purposes provides for a 56% discount if its annual business turnover is less than £45,000. We believe that a more graduated scale would be fairer and will bring forward a separate consultation about possible replacement of this system with a turnover-related trading agreement. In the meantime, we will update the threshold for the discount to the HM Revenue and Customs threshold for compulsory registration of VAT which is currently £60,000 p.a.
8. These changes will take effect from 1st October 2006. .



	1st proposal (June 05)	'White Paper' (Nov 05)	Proposal put to national user groups, January 06	Final decision
Key points of proposals	<p>Higher and lower rates equivalent to current private and business licences (=2.47 times private rate)</p> <p>Allocation to higher or lower rate determined by usage and price elasticity.</p>	<p>As 1st proposal</p> <p>Continuous cruisers remain at lower rate</p> <p>How a boat is used and operated, rather than who owns it should be relevant to the determination of higher or lower rate. Boats classified as 'sole or family user' v. 'multi-user' = rights to use across several households/commercial hiring etc.</p>	<p>Revert to 2004 criterion: 'boat operated by ... commercially managed shared ownership scheme' = higher rate". Test validity through complaints procedure in light of clearer pricing principles and consultation.</p>	<p>Revert to existing private and business labels</p> <p>Use the status of the licence applicant (responsible for payment of the fee and compliance with licence terms and conditions) to determine licence category. If applicant is private individual, licence will be for private use; if applicant is company or organisation, licence for business use.</p>
Reason for amending	<p>Insufficiently robust data to underpin allocation of customer groups to higher or lower rates</p>	<p>Continued sense of unfairness for groups of private individuals sharing a boat</p>	<p>Continued concern from user groups over fairness and objections to loss of 'private' and 'business' classifications.</p>	