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Dear Sir

**Directly Managed Moorings: Pricing and Vacancy Allocation  
Public Consultation Summer 2008**

We refer to the above consultation document published on 28 May 2008. The RYA welcomes this opportunity to comment on BW's proposals.

The RYA is the national body for all forms of recreational and competitive boating. It represents dinghy and yacht racing, motor and sail cruising, RIBs and sportsboats, powerboat racing, windsurfing, inland cruising and personal watercraft.

The RYA is recognised by all government offices as being the negotiating body for the activities it represents. The RYA currently has over 100,000 personal members, the majority of whom choose to go afloat for purely recreational non-competitive pleasure on coastal and inland waters. There are an estimated further 500,000 boat owners nationally who are members of over 1,500 RYA affiliated clubs and class associations.

The RYA also sets and maintains an international standard for recreational boat training through a network of over 2,200 RYA Recognised Training Centres in 20 countries. On average, approximately 160,000 people per year complete RYA training courses.

We acknowledge BW's intention to review and to seek to improve the basis on which it charges for moorings on its waterways but we do not believe that the proposals set out in the Consultation Document will offer any improvement. In our view, BW's favoured approach may in fact represent a retrograde step.

We note that, in Section 3.2 of the Consultation Document, reference is made to the "market price". It is our understanding, however, that the term being described is not "market price" but "market value".

Our understanding is that the “market value” of a product is a theoretical underlying value of a product for which demand is exactly equal to the available supply, in an “efficient” market in which “good information” about the product and comparable alternatives is freely available.

Our understanding of “market price”, on the other hand, is that it represents the price at which two parties are in reality prepared to transact. This figure may differ from “market value” for a number of reasons, not least of which might be the efficiency of the market and the availability of relevant information to the respective contracting parties. The concept of “market price” also might take into account the fact that individuals may be prepared to pay a higher price than the theoretical “market value” for a particular product simply because they can afford to.

In practice, we do not believe that many prospective mooring holders would find “good information” regarding the cost of comparable alternative moorings to be readily available. If the location in which they wished to moor their craft happened to include several commercially managed moorings then this might provide some indication but on some parts of the network there are few if any comparable alternative moorings to those operated by BW with which to compare prices and this may in turn affect the “efficiency” of the market.

We understand BW’s desire to let its moorings on a more commercial basis, possibly involving the concept of “market value”, but our overall concern is that the proposal for deriving mooring charges by way of tender or auction is in fact more likely to produce a figure representing “market price” – i.e. potentially a significantly more subjective and variable figure. We do not believe that a system based on “market price”, namely letting moorings to the highest bidder, is appropriate.

One of the strengths of the recreational boating sector is that it appeals to people from a wide range of socio-economic groups but a corollary is that such boaters enjoy widely differing degrees of affluence. If the provision of moorings is open to competitive tender or auction then more affluent boaters may be prepared to pay a “market price” significantly greater than the “market value” in order to obtain or retain a mooring of their choice. This will inevitably result in fewer available moorings for less affluent boaters. It may also produce a wide and unpredictable variation in BW’s annual mooring income according to the prevailing economic climate, with boaters’ available disposable income being reflected in the “market price” they may be prepared to pay at a particular time.

We do not accept the assertion in paragraph 4.4 of the Consultation Document that to seek to address such potential iniquity would result in canal users being “singled out for exemption from market based pricing, which is considered normal in this country except for some essential services such as healthcare”. The underlying principle of UK and EU competition law is that it regulates the way businesses compete and promotes competition between businesses in the interests of economic efficiency and the protection of consumers. As such, the competition law regime is intended to ensure that competition in the market place is between suppliers for the benefit of consumers, not between consumers for the benefit of suppliers, and in our view the proposed tender or auction process represents the latter.

If a comparison is drawn with the coastal marina sector, for example, the “market value” for marina berths in a particular marina is derived by the marina operator comparing the facilities offered by that operator with those offered by nearby competitor marina operators and by considering the prices charged by those competitors. The success of the marina operator’s assessment of “market value” (taking into account the overall range of services provided by the operator) is then reflected in the popularity of the marina. Notwithstanding the fact that some coastal marinas have waiting lists, the coastal marina sector does not calculate “market value” by requiring berth-holders to compete for berths by asking them what they wish to pay for their berths and then allocating berths to the highest bidders.

In our view, therefore, the means by which BW establishes the “market value” for its moorings should primarily be by comparison with local competition from commercial mooring providers, taking into account the factors identified in paragraph 3.5 of the Consultation Document. It is interesting to note in this regard that this is the approach adopted by BW Marinas Ltd. If, as indicated above, there are no comparable alternative moorings in a particular area then BW could apply its own understanding of the wider moorings market on the network. To this end, we support the proposal set out in paragraph 3.10 of the Consultation Document that BW should derive “market value” for its moorings by “improving the consistency and quality of mooring site valuations using existing methods”.

Although we acknowledge that such an approach may “demand a greater level of technical expertise and resource” than currently allocated, we believe that this approach is closest to that adopted by competitive commercial marina operators and that this should therefore form the basis of BW’s policy.

We would be happy to discuss our submission further with the Consultation Team, if that would be of assistance.

Yours faithfully,



Gus Lewis  
Legal & Government Affairs Manager