


Friday, 1st May 2009



Thank you for the opportunity to respond to your consultation regarding the Department for Transport's proposals within the consultation paper, "Exceptions from the Alcohol Limits for Non-professional Mariners", dated 11th February 2009.

The British Marine Federation is the trade association for the leisure boating industry, representing 1,500 member companies. Our members provide the boats, equipment, facilities and services that enable nearly 3.2 million people to enjoy their recreation afloat on the coast and inland waterways of our country. The BMF also operates the London and Southampton International Boat Shows via its subsidiary National Boat Shows Ltd.

Our industry is wholly comprised of small and medium-sized enterprises with over 95% of companies within our membership employing less than 50 people (based on BMF membership statistics). In total the UK leisure marine sector directly employs over 35,000 people and generates annual revenues of over £3 billion, of which 35.1% represents export sales. Over recent years the leisure marine sector has been recognised by Government as a manufacturing success story and a growing and valuable contributor to the UK economy.

The BMF welcomes the opportunity to provide views on behalf of the industry to the Department for Transport on the exemption. The BMF has been in dialogue with the Department since the start of the debate on this issue relating industry's concerns that badly framed legislation will damage the boating market. We are particularly concerned about the boating holiday sector which contributes significantly to UK tourism. We are anxious to ensure that any regulation is appropriate, proportional and not overly detrimental to our industry.

The BMF recognises the inherent dangers of navigating a craft while incapacitated through the consumption of alcohol and supports limiting the legal level of consumption in principle. It also recognises existing by-laws concerning alcohol consumption and boat navigation enforced by the various navigation authorities and promotes these regulations to its members.

General Observations

Throughout our dialogue with the Government on this issue the BMF has asserted that there is little evidence of widespread alcohol abuse afloat and urged the Department to quantify the anecdotal evidence used to justify its approach to alcohol limits on

non-professional mariners. The BMF is also unaware of any recent research on alcohol related deaths at sea, or on inland waterways, associated specifically to recreational boating activity. We are very concerned that the studies referenced in the consultation document are misleading.

Responses to Specific Questions

1. **Do you agree with the parameters of the exception stated in the draft Regulations, (“(a) a length overall less than 7 metres; and (b) a maximum design speed not exceeding 7 knots”) and that they will exempt smaller vessels, including rowing boats, paddle boats and sailing dinghies from the application of alcohol limits and associated tests?**

The BMF has been informed that the Government’s concern is focused on fast, powered craft. We therefore welcome the Department’s desire for an exemption for smaller, slower craft and recognise the validity of determining this exemption through length. However, we do not believe that hull design speed is a suitable measure.

This ‘theoretical’ measure provides an upper maximum for the design of a specific hull and does not reflect the actual speed a craft can attain, even under ideal conditions. The actual performance of a craft will vary considerably, depending on the weight it must support, coupled with the powerplant used for its propulsion and the current weather conditions. Unlike the car industry, boaters frequently purchase power units separately from the hull of their craft and supply as much or as little power to that craft as they wish, within the manufacturers prescribed guidelines. It is going to be practically impossible for marine officials to make consistent assessments of hull design speed and the consequences are that a vast number of non-professional boaters will be subject to alcohol testing due to a theoretical maximum rather than the actual performance of their craft.

It should also be noted that hull design speeds for small craft are often estimated rather than verified. This would make any case put forward by the Criminal Prosecution Service extremely difficult to substantiate.

Given this, and the fact that the Railway and Transport Safety Act (Section 80 – 5) refers to length and power in reference to the exemption, The BMF would advocate that the Department for Transport utilise this measure rather than more ambiguous ones.

2. **Do you agree that the combination of parameters for the exception will ensure that most of those vessels which pose a high risk in the water are subject to the application of alcohol limits?**

The BMF does not accept that any recreational craft poses a high risk in the water, regardless of its size, power or displacement. However, it does recognise the Government’s desire to distinguish those craft capable of a certain speed or displacement and to subject those operating them to alcohol limits.

It is certainly true that the parameters for enforcement are sufficient and will accomplish this, however, they are also likely to affect craft that the Government had specifically wanted to exclude.

As mentioned earlier, by referencing the theoretical hull design speed as a qualifier for the exemption, it is very likely that many smaller craft will be subject to alcohol limits where none had been intended by the department.

3. **Do you agree that the proposed exception is clear and understandable to most non-professional mariners, the Police and other enforcement agencies?**

The use of hull design speed as a qualifier for alcohol testing on boats is likely to cause significant confusion for both non-professional mariners and law enforcement officials.

The vast majority of boaters who possess craft under 7 metres would be unaware of the full technical details of their craft. They would be familiar of the speed their craft could achieve through its operation have knowledge of its legal alcohol limits. Any decision regarding their fitness to operate their craft after alcohol consumption would be taken on the individual based on this knowledge.

This could result in large numbers of recreational boaters inadvertently incriminating themselves. This confusion is then compounded when one considers the estimated nature of hull design speeds and a lack of technical knowledge possessed by the police and marine officials charged with enforcing the regulations.

If a police officer must first determine the hull design speed before breathalysing non-professional mariners, it is extremely unlikely that any successful arrest will be accomplished due to that information not being readily available.

4. **Do you agree that the combination of parameters for the exception are sufficient to minimise any health and safety risks linked specifically to alcohol consumption in this environment?**

The BMF does not condone the operation of craft while under the influence of alcohol. Our experience reflects the fact that the majority of boaters go out on the water to enjoy their recreation or sport and do not wish to be impaired by alcohol. We refer to our concerns above concerning the validity of the research referenced in the consultation document. The BMF is unaware of any quantifiable evidence of alcohol being a significant health and safety factor in relation to incidents concerning the operation of recreational craft.

5. ***‘Are there any additional comments you wish to make?’***

The leisure marine industry supports many businesses associated with hospitality and leisure.

Many people who keep boats on our inland waterways and those who hire holiday boats view them as being equivalent to a country cottage. Moderate alcohol consumption constitutes a part of a traditional maritime holiday and by removing this ability many may choose to stay at home rather than navigate the canals and rivers. Boating tourists contribute significantly to the local economy on our canals, rivers and Norfolk Broads spending money in restaurants pubs and shops. The regulatory impact assessment must take into account the potential impact of this legislation on waterside businesses.

The BMF notes that the concept of creating 'marine officials' is outside the scope of this consultation. However, the whole issue of enforcement in respect of recreational activity is an area that has the most potential to damage the boating market and drive away our members' customers into other forms of recreation. Our understanding is that only a uniformed police officer is able to breathalyse an individual. We urgently seek more information regarding which individuals are likely to be designated as 'marine officials' and what powers will be vested in them.

Please contact me if you have any questions about this response to the consultation by the BMF on behalf of the leisure marine industry.

Yours sincerely

Howard Pridding
Executive Director