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**HMRC Consultation on the Implementation of the Court of Justice of the European Union (CJEU) judgment on diesel fuel used in private pleasure craft**

**Background to the Inland Waterways Association**

The Inland Waterways Association is the membership charity that works to protect and restore the country's 6,500 miles of canals and navigable rivers. IWA is a national organisation with a network of volunteers and branches who deploy their expertise and knowledge to work constructively with navigation authorities, government and other organisations. The Association also provides practical and technical support to restoration projects through its Restoration Hub.

IWA thanks the HM Revenue & Customs for the opportunity to comment on the above consultation and would make the following comments.

**Background to the consultation**

The 2018 judgment of the Court of Justice of the European Union (CJEU) ruled that it is contrary to the Fuel Marker Directive that the UK allows rebated fuel (red diesel) to propel private pleasure craft, even though the user of the fuel pays their supplier the duty differential between red diesel and unmarked (white) diesel on the amount used to propel their craft. The current consultation outlines how the government intends to implement the judgment by requiring private pleasure craft to use white diesel for propulsion.

The implementation of the ruling would mean the end of the use of red diesel for any leisure boating. Whilst red diesel could continue to be used for heating, it would have to be in a separate tank, and there would be no dispensation for any proportion of fuel used by the engine for generating heat and light. Commercially operated boats would still be able to use red diesel, as would residential boaters with proof of fixed moorings. Non-residential boaters with a permanent mooring, and boats without a home mooring who are continuously cruising, would be required to use white diesel.

IWA is responding to this consultation on behalf of all UK users of diesel propelled craft and those involved in the supply of fuel to UK craft.

### Consultation response from The Inland Waterways Association

IWA considers that the implementation of the ruling would create the following problems:

- The key concern is that boatyards on the UK's inland waterways, most of which currently only sell red diesel, will be faced with the choice of either installing an additional tank to supply white diesel, or changing from supply of red diesel to white diesel. If they do the latter, they will need to thoroughly clean the existing tank and clear the current supply of red diesel. This will be technically difficult and very expensive. It is likely, therefore, that the majority of boatyards and marinas would continue to sell only red diesel, particularly those that operate a hire boat fleet or have residential moorings (as both of these categories of boat would be able to continue to use red diesel).
- Consequently, owners of privately owned pleasure craft needing to refuel their boats with white diesel will struggle to find a boatyard that sells it. This would present an almost insurmountable problem. Existing leisure boats have only one fuel tank, and the installation of a second tank into an existing boat would be technically very complex and therefore economically unacceptable.
- The use of portable fuel cans to purchase white diesel from roadside filling stations, assuming reasonable proximity to the waterway, would be so impracticable as to be more or less impossible. Narrowboats have fuel tanks with a capacity of anything from 300 litres to 800 litres, whereas portable fuel cans typically hold only 25 litres.
- Boaters may find it cheaper to buy a portable generator, which can use red diesel, rather than run their engine for heating, cooking and lighting power. The attempted use of portable fuel cans or generators would present significant safety and environmental risks arising from the inevitable spillages and the use of generators in confined spaces and in urban areas.

## Conclusion

In order to mitigate the problems outlined above, IWA requests that HMRC should adopt the following suggestions:

- That the current arrangements, which were reached after a significant period of consultation and discussions in 2008, should continue until the situation regarding the UK's membership of the European Union is clearer, and that any changes should be postponed for as long as possible.
- That HMRC should allow the longest possible transition time prior to implementing the ruling to allow sufficient time (including raising finance) for boatyards to install new or convert existing tanks, and for boaters to undertake any necessary modifications to their vessels.
- That HMRC should provide written confirmation that they will allow existing red dye in fuel tanks to fade naturally, and to allow time for existing stocks of red diesel purchased prior to any change to be used up without having to waste and dispose of any dyed fuel.

We ask that HMRC takes these suggestions, and the individual comments of all the many boat owners and diesel suppliers who have responded to the consultation, into account when deciding how to implement the CJEU ruling.

The Inland Waterways Association  
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