

CONSULTATION DOCUMENT

Proposal for a Directive on
Recreational Craft and Personal
Watercraft

11 NOVEMBER 2011

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1. Proposal for a Directive on Recreational Craft and Personal Watercraft

This consultation seeks views on the European Commission's Proposal for a Directive on Recreational Craft and Personal Watercraft (the Proposal). A copy of the Proposal can be downloaded at: http://ec.europa.eu/enterprise/sectors/maritime/recreational-craft/index_en.htm

A copy of the Commission's Impact Assessment on the Proposal can be obtained on request to the contact below.

We are required under Government guidelines to consult with stakeholders that have an interest in recreational craft and personal watercraft where the proposal might have negative impact on the industry. The sector covers a wide range of watercraft including yachts, narrow boats and luxury motor cruisers. It is a lively and dynamic sector in the UK with a large number of SMEs. The Government broadly supports revision of the Directive as we believe that the Proposal contains a number of improvements on the current directive. The reduction in exhaust emissions is welcomed as this will bring it into line with practice in the United States. Although this may result in increased cost to business, there will also be benefits to engine manufacturers trading in the global market in terms of exports that this should bring. However, there are a number of areas where the Government has identified potential difficulties with the Proposal, which are set out below. We are asking for your views on whether you have any concerns over the Proposal and what could be done to address these concerns and what could be done to improve it.

Issued: 11 November 2011

Respond by: 11 February 2012

Enquiries to: Kevin Lane, Electronics, Materials, Chemicals & Product Regulation, Department for Business, Innovation & Skills, 4th Floor, 1 Victoria Street, London SW1H 0ET. Tel 020 7215 1774. Email: Kevin.Lane@bis.gsi.gov.uk

This consultation is relevant to boat builders and manufacturers of engines and other specified components. It will also be of interest to enforcement authorities, trade associations and notified bodies.

2. Executive Summary

This consultation seeks views on the European Commission's Proposal for a Directive on Recreational Craft and Personal Watercraft. The Proposal is a general tidying up of the current Directive and updating of the environmental requirements contained therein, to align it with current requirements in the United States which would assist UK manufacturers in exporting recreational craft to the international market. The sector covers a wide range of craft including yachts, narrow boats and luxury motor cruisers. It is a lively and dynamic sector in the UK with a large number of SMEs. The UK has a strong manufacturing capability in this sector, which includes a number of specialist SMEs that need protection from unnecessary burdens of the costs of compliance.

The revised Directive will regulate the placing on the market of products coming within its scope and promotes safety and will establish stricter environmental requirements that cover noise and exhaust emissions of certain engines.

The Key Issues raised by the Proposal are (with references to Articles and Annexes in the Proposal):

Reduction in exhaust emission limits and noise emissions for engines (Article 22 (exhaust emissions), Article 23 (noise emissions) and Annex 7).

The proposed reduction in exhaust emissions will align with current practice in the United States. This is an updating of requirements and was supported by EU Stakeholders to reduce production costs to the advantages of scale and lower costs of testing procedures. A flexible transitional arrangement has been included to help SMEs to meet the requirements.

Post Construction Assessment (PCA) only available for private importers (Article 20, Article 24 and Annex 5).

In the current directive PCA is available for all economic operators. There is some dispute as to whether it can be used for all products coming under the scope. The proposal makes it clear that all products coming under scope can use PCA. However, it also says that PCA can only be used by the private importer. We think this will be detrimental to small commercial importers.

Definition of "partly completed" watercraft (Article 3).

The definition in the Proposal for "watercraft built for own use" would mean most projects of this kind will need to comply with the Directive, which is likely to be an undue burden on an individual.

Definition of "watercraft built for own use" (Article 3 and Article 20).

The Proposal does not address the existing problem with the definition of partly completed craft, which is a concern to the UK with the large part built canal boat industry intended to be completed by the consumer as a DIY project. Once completed the consumer would need to meet the requirements of the Directive.

Exclusion for canoes and kayaks which are designed to be propelled by hand power only (Article 2).

In our view canoes and kayaks are inherently unable to meet the essential requirements of the Directive, which is the reason they were excluded in the first place. We do not think the change will improve the safety of these products.

This is a UK wide consultation and is aimed at boat builders, engine manufacturers, importers and distributors of watercraft. We are also interested in contributions from enforcement agencies, trade associations, notified bodies, government departments and consumers.

We are interested in your views on the issues raised above and any other concerns you might have regarding the directive proposal. The responses received will help to shape the UK line in negotiations on the directive proposal.

Responses to the consultations are required by **11 February 2012**.

3. How to respond

Please state whether you are responding as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents by selecting the appropriate interest group on the consultation response form and, where applicable, how the views of members were assembled.

A copy of the Consultation Response form is enclosed, or available electronically at www.bis.gov.uk/assets/biscore/business-sectors/docs/c/11-1359rf-consultation-proposal-directive-recreational-craft-and-personal-watercraft-form

If you decide to respond this way, the form can be submitted by letter, fax or email to:
Kevin Lane

Electronics, Materials, Chemicals & Product Regulation

Department of Business, Innovation and Skills

1 Victoria Street, London, SW1H 0ET

Tel: 020 7215 1774

Fax: 020 7215 6862

Email: Kevin.Lane@bis.gsi.gov.uk

A list of those organisations and individuals consulted is in Annex 2. We would welcome suggestions of others who may wish to be involved in this consultation process.

If you have any concerns about the way the consultation is being run please refer to the contact given in Annex 1.

If you wish to respond to this consultation in hard copy you may submit your response using the detachable Consultation Response Form (there is an optional generic copy of this form at Annex 4 below). You may also consider making available a web version of the Response Form. Make clear whether the web version is fully interactive or downloadable and include the web address in the hardcopy version.

4. Additional copies

You may make copies of this document without seeking permission. Further printed copies of the consultation document can be obtained from:

BIS Publications Orderline
ADMAIL 528
London SW1W 8YT
Tel: 0845-015 0010
Fax: 0845-015 0020
Minicom: 0845-015 0030
www.bis.gov.uk/publications

An electronic version can be found at www.bis.gov.uk/assets/biscore/business-sectors/docs/c/11-1359-consultation-proposal-directive-recreational-craft-and-personal-watercraft

Other versions of the document in Braille, other languages or audio-cassette are available on request.

5. Confidentiality & Data Protection

Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want information, including personal data that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

6. Help with queries

Questions about the policy issues raised in the document can be addressed to:

Kevin Lane
Electronics, Materials, Chemical & Product Regulation
Department of Business, Innovation and Skills
1 Victoria Street, London, SW1H 0ET
Tel: 020 7215 1774
Email: Kevin.Lane@bis.gsi.gov.uk

A copy of the Code of Practice on Consultation is in Annex 1.

7. The proposals

The Government broadly supports revision of the Directive as the Proposal seeks to introduce a number of improvements and most operating within the industry will see little change from the current Directive. The reduction in exhaust emissions is welcomed. This will bring it into line with practice in the United States. Although this may result in some increased cost to business,

it will make it easier for engine manufacturers trading in the global market with benefits in terms of exports this should bring.

The Government is not supportive of the move to restrict the exclusion of canoes and kayaks to those which are hand powered only. This will bring into scope many craft which are inherently unable to meet the essential requirements.

The Post Construction Assessment (PCA) route used by importers of second hand craft into the European Economic Area (EEA) will be closed to all but the private importer. Preventing business imports by use of PCA would mean that commercial importation of second-hand craft into the EU will be effectively stopped. This will impact only a small number of craft and businesses. Certain major industry players have been looking to stop the importation of second hand craft by the PCA route, as there has, in the past, been a certain amount of new US sourced craft being placed on the EU market as second-hand, at prices considerably cheaper than the same products offered by EU based manufacturers. In the Government's view the PCA route should be available for use by any economic operator or private importer.

The Proposal does not address the existing problem with the definition of "partly completed" craft, which is a concern to the UK where a large part of the canal boat industry produces craft which are intended to be completed by the consumer as a DIY project. Once completed the consumer would need to meet the requirements of the Directive. However, the point at which the craft is considered complete is not defined. The definition in the Proposal for "watercraft built for own use" would mean most projects of this kind will need to be comply with the Directive, which would be an undue burden on an individual.

The UK will seek to ensure that the Proposal does not impose any unnecessary administrative burdens on business wherever possible whilst improving the safety and environmental objectives of the current Directive.

8. Enforcement Considerations

Enforcement will continue to be carried out by local trading standards offices. It is not expected that the costs for local authorities will rise significantly; the allocation of resources required to facilitate effective enforcement will be a matter for the local authorities concerned. The proposal allows for a range of enforcement and compliance measures to be implemented by Member States which can include both criminal and civil sanctions. The enforcement agency responsible will assess which compliance measures are most appropriate will usually be carried out on a case by case basis in response to each complaint and allows for flexibility regarding the methods to be used to demonstrate compliance. However, in many cases, manufacturers will need to involve a notified body authorised to conduct conformity assessments on every product which is to be placed on the market in order to demonstrate compliance with the directive.

9. Consultation questions

1. Do you think the proposed reduction in exhaust emission targets is reasonable and achievable? Will the proposed transitional arrangements make it easier for SMEs to reach the new limits?

2. The Proposal makes changes to the requirements for Post Construction Assessment (PCA) and will only be available to private importers. What effect might this have on the market for products coming within scope?
3. Do you agree with the definition given for “watercraft built for own use”? Have you any suggestions as to how it might be improved?
4. Do you agree with the definition given for “partly completed watercraft”? Have you any suggestions as to how it might be improved?
5. The proposal would bring larger and motorised canoes and kayaks within the scope of the Directive. Do you think this would be an improvement? Please provide reasons for your answer.

An Impact Assessment Checklist is shown at Annex 3. Should you have any comments on this please include them in your response.

10. What happens next?

After the closing date the responses will be collated and summarised. These will be published on the BIS website. The Government will aim to publish the results of this consultation and provide a response by 11 May 2012.

The Better Regulation Executive Code of Practice on consultation states that decisions in the light of the consultation should be made public promptly with a summary of views expressed and reasons given for decisions finally taken. This should be on the BIS website, including a link from the central BIS consultation web pages, with paper copies of the summary of responses made available on request.

Annex 1: The Consultation Code of Practice Criteria

1. Formal consultation should take place at a stage when there is scope to influence policy outcome.
2. Consultation should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
3. Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
4. Consultation exercise should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
5. Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
6. Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
7. Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

Comments or complaints

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to:

Sameera de Silva,
BIS Consultation Co-ordinator
Department for Business Innovation and Skills
1 Victoria Street,
London
SW1H 0ET

Telephone Sameera on 020 7215 2888
or e-mail to: Sameera.De.Silva@bis.gsi.gov.uk

Annex 2: List of Individuals/Organisations consulted

Carol Abel	British Marine Federation
Peter Applegate	Wroxham Marine
Irish Sailing Association	
Steve Austen	RNLI
Tony Baker	Department for Transport
Edward Baldwin	MCC Boats
Tim Bartlett	Firemaster Extinguisher Ltd
John Baylis	Inland Waterways Association
Steve Birtles	Broads Authority
Trevor Blakeley	The Royal Institution of Naval Architects
Andrew Blyth	Blyth Bridges
Motor Boat & Yachting	
Bucaneer Boats & Mouldings	
Stephen Goldsborough Boats	
Richard Booth	Historic Narrow Boats
Karen Boss	British Marine Federation
James Bryan	SW Herts Narrow boat Association
Neil Buchannan	H2O Kayaks Ltd
David Bull	
David Burdett	
Boating Business	
Buy a Boat (for under £20,000)	
Canal & Riverboat	
Marco Cara	
Neil Chapman	RNLI
Richard Clark	Kent Trading Standards
Michael Clarke	
Peter Clubbe	
Sally Coleman	Hardy Marine
Chris Collinson	Calcutt Boats Ltd
AB Composites	
Matt Cooper	
Adam Corney	Marine South West
Nick Creed	Oyster Marine
Cruising	Journal of the Cruising Association
Nick Davies	
Peter Davies	
Barry Deakin	University of Southampton
Bob Draper	
Charlotte Edward	CCPR
David Elson	British Marine Federation
Martin Endors	Falmouth Boat Construction
C Findlay	Cornish Crabbers LLP
Paul Fisher	Selway Fisher Design
Phil Flanders	
CT & P Fox	Fox Boats
Paul Freeman	Sabre Engines Ltd
Paul Garfield	Clifton Crusiers
Mike Garton	CIEH

Jo Gilbertson	Inland Waterways Association
Anthony Graham	Rose Narrowboats
Ian Graham	WB Trailboats
Rod Grant	Nash & Co Solicitors
Jonathan Greenway	
Mike Gregory	Selva Marine
Mary Haines	Haines Marine
Richard Hallowes	
Roger Hardy	
Gill Harman	Sirius Marine
Nigel Harmer	Maldon District Council
Robert Harvey	London Borough of Richmond-upon-Thames
Nick Henly	Lewmar Ltd
Robert Henville	
Harry Hermon	
Cheryl Howes	Kate Boats
Mike Humpherson	Hydraulic Projects Ltd
International Boat Industry	
Birchwood Marine International	
Multihull International	
Princess Yachts International	
RIB International	
Brian Jarrett	
Langford Jillings	
Barry Jobling	NPL
AJ Jones	Acoustical Investigation & Research Organisation Ltd
AW Jones	
Harry King	Kings Boat Yard
A Kirwilliam	Bureau Veritas
AJE Landamore	
Les Davies	Northshore Yachts Ltd
Yachting Life	
Blue C Marine Technology Ltd	
CBN Marine Ltd	
Clifton Cruisers Ltd	
Cory Yachts International Ltd	
Crayford Marine Ltd	
CW Parish Ltd	
David Hillyard Ltd	
Dehler Yachts UK Ltd	
FSB Marine Ltd	
Goodchild Marine Service Ltd	
Harbour Marine Services Ltd	
Henshaw Inflatables Ltd	
Holyhead Marine Services Ltd	
Island Marine Craft Ltd	
Jeremy Rogers (Yachts) Ltd	
Marine Languard Ltd	
Marine Plamcraft Ltd	
Scorpion Ribs Ltd	
Sea Ranger Yachts Ltd	

Sealine International Ltd	
Simco Marine Ltd	
Souter Marine Ltd	
Julia Mackenzie	Maldon District Council
Graham Mackereth	Pyranha
Classic Boat Magazine	
RYA Magazine	
David Mallett	
Clive Mant	
Boat Mart	
Marian Martin	BYM News
Robert Mason	
MC Broom	Broom Boats
Stuart McLellan	British Marine Federation
Nick Mellor	Weltonfield Narrowboats
Bill Mitchell	
Bryan Mitchell	CBS Products Ltd
Mitch Mitchell	Honda
Norman Mitchell	Commercial Boat Operators Association
Tom Montagu	
Motor Boats Monthly	
Yachting Monthly	
Pyranha Mouldings	
Corbett Narrowboats	
Sydney Nash	BIS
GOBA News	
Peter Nicholls	Brauston Marina Trade Centre
Sarah Norbury	
Simon Parker	Suzuki GB Plc
Richard Payne	NPL
Stephen Penton	
Nick Percy-Griffiths	
Brian Perrett	Vehicle Certification Agency
JD Pickup	Russell Newberry & Co Ltd
John Pinder	JL Pinder & Sons
Fairline Boats Plc	
Grahame Pomeroy	Vehicle Certification Agency
Roger Preen	Calcutt Boats
Andy Pumfrey	Yamaha
Steven Rea	
John Redmond	Environment Agency
Peter Reid	Reid Steel
Suzanne Richards	Humber Boats
Nick Riordan	Hampshire Trading Standards
Stephen Roberts	
Fiona Rogers	
Tim Rowe	
Richard Rushton	Delta Power
Sam Russell	Plas Menai National Watersports Centre
Speed Sails	
Nigel Saw	British Marine Federation

Robert Scott	
All at Sea	
BSI Products Services	
MJ Sloggett	Revenger
Simon Smedley	Swale Marine
Bob Southerland	
Jim Spooner	Department for Transport
Sportsboat and RIB	
Nicky Spurr	Maldon District Council
Anthony Stammers	British Waterways
Bob Stevens	Lewmar Ltd
Lucy Strevens	Cheetah Marine
Inge Katherine Svendsen	
Stuart Taylor	Environment Agency
Peter Thomas	Select Yacht Group Ltd
Pauline Thompson	Broom Boats
Peter Tier	
Richard Titchener	
Sailing Today	
Mark Towl	Maritime & Coastguard Agency
Ben Tudor	IPC Media
Edward Tuite	Fairline Boats Ltd
Chris Tunstall	
Hobie Cat in UK	
Ariana Vazquez	
Guy Walker	
Andrew Wallace	Vehicle Certification Agency
Canal Boat and Inland Waterways	
Graham Watts	Boat Safety Scheme
KD Whittle	The Oil Engine Co.
Andy Wickes	Lewmar Ltd
Alan Williams	Plas Menai National Watersports Centre
Danny & Shelia Williamson	
Matthew Wilson	Perkins Engines Ltd
Michael Wooding	
Waterways World	
Yachting World	
Andrew Wright	SG Boats
Yachts and Yachting	

Annex 3: Impact Assessment Checklist of the Proposal for a Directive on Recreational Craft and Personal Watercraft

Checklist for analysis on EU proposals

See pp.29-30 of the IA toolkit for guidance on how to use this checklist: <http://www.bis.gov.uk/assets/biscore/better-regulation/docs/11-1112-impact-assessment-toolkit.pdf>

Title of EU proposal: Proposal for a Directive on Recreational Craft and Personal Watercraft Lead dept/agency: Department for Business, Innovation & Skills Other depts/agencies with an interest: DFT, Defra Date: 22 August 2011	Lead policy official: Kevin Lane Kevin.Lane@bis.gsi.gov.uk Tel: 020 7215 1774
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What are the potential impacts of the Commission proposal on the UK?

AFFECTED GROUPS: The main groups to be affected are in the private sector. Specifically the proposal will effect boat builders, engine manufacturers, importers and distributors:

- The sectors involved are recreational craft, personal watercraft and marine engines
- In total the number of people employed in the sectors in the UK is around 32,500
- It is estimated that the proposal will effect around 500 companies
- Around 95% of these companies are SMEs or micro businesses

COSTS & BENEFITS:

- If the net benefits of adopting the revised Directive are distributed according to the number of engine manufactures in each Member State then net benefits to the UK could be around €0.7-4.2m which would be ongoing generated on average every year.
- There should not be a detrimental impact on small firms as mitigating measures are being proposed which would alleviate the burden on smaller engine manufacturers which may face disproportionately higher compliance costs.
- The proposal will not have a detrimental affect on competition

ENFORCEMENT:

- Enforcement will continue to be carried out by local trading standards offices and the resources required to facilitate effective enforcement will be a matter for the local authorities concerned – however it is not expected that the costs for local authorities will rise significantly
- The proposal is flexible enough to allow for a range of enforcement and compliance measures to be implemented by Member States including both criminal and civil sanctions. An assessment of which compliance measures are most appropriate will usually be carried out on a case by case basis in response to each complaint
- There is no requirement for regular inspections of manufacturers and products in the proposal
- The directive proposal is also flexible over the methods to be used to demonstrate compliance though in many cases manufacturers will need to involve a notified body authorised to conduct conformity assessments on every product which is to be placed on the market

LEGAL IMPLEMENTATION/COPY-OUT:

The revised Directive (if adopted) will require legislative action to implement its provisions in the UK. It is anticipated that this will be through a new Statutory Instrument to replace the existing UK Regulations (SI 2004/1464), which implemented the original directive (94/25/EC) as amended. This is because the changes envisaged in proposal are substantial. It should be possible to apply the principles of copy out to implement the proposal. However, there would need to be some additions to implement an effective and dissuasive enforcement regime in the UK.

Ministerial sign-off:

I have read the analysis above of the potential impacts of this proposal and I am satisfied that, given the significance of the proposal, the time and evidence available, and the uncertainty of the outcome of negotiations, it represents a proportionate view of possible impacts.

Signed by the responsible Minister:

Date:

Annex 4: Consultation on Proposal for a Directive on Recreational Craft & Personal Watercraft - response form

The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses.

The closing date for this consultation is 11/02/2012.

Name:

Organisation (if applicable):

Address:

Please return completed forms to:

Kevin Lane

Department for Business, Innovation & Skills

Orchard 1, 4th Floor

1 Victoria Street

London SW1H 0ET

Telephone: 020 7215 1774

Fax: 020 7215 6862

email: Kevin.Lane@bis.gsi.gov.uk

Please can you tick a box from a list of options below that best describes you as a respondent.

<input type="checkbox"/>	Business representative organisation/trade body
<input type="checkbox"/>	Central government
<input type="checkbox"/>	Charity or social enterprise
<input type="checkbox"/>	Individual
<input type="checkbox"/>	Large business (over 250 staff)
<input type="checkbox"/>	Legal representative
<input type="checkbox"/>	Local Government
<input type="checkbox"/>	Medium business (50 to 250 staff)
<input type="checkbox"/>	Small business (10 to 49 staff)
<input type="checkbox"/>	Micro business (up to 9 staff)
<input type="checkbox"/>	Trade union or staff association
<input type="checkbox"/>	Other (please describe)

Question 1 (Article 22 (exhaust emissions), Article 23 (noise emissions) and Annex 7)

Do you think the proposed reduction in exhaust emission targets is reasonable and achievable? Will the proposed transitional arrangements help SMEs to reach the new limits or will they make no difference?

Comments:

Questions 2 (Article 20, Article 24 and Annex 5)

The Proposal makes changes to the requirements for Post Construction Assessment (PCA) and will only be available to private importers. What effect might this have on the market for products coming within scope?

Comments:

Question 3 (Article 3)

Do you agree with the definition given for “watercraft built for own use”? Have you any suggestions as to how it might be improved?

Comments:

Question 4 (Article 3 and Article 20)

Do you agree with the definition given for “partly completed watercraft”? Have you any suggestions as to how it might be improved?

Comments:

Question 5 (Article 2)

The proposal would bring large canoes and kayaks within the scope of the Directive. Do you think this is an improvement?

Comments:

Do you have any other comments that might aid the consultation process as a whole?

Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply

At BIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

Yes

No

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This publication is also available on our website at www.bis.gov.uk/assets/biscore/business-sectors/docs/c/11-1359-consultation-proposal-directive-recreational-craft-and-personal-watercraft

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1 Victoria Street
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Tel: 020 7215 5000

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