

## **National Bargee Travellers Association**

### **Response to consultation on changes to mooring vacancy sales across CRT's long term mooring sites.**

The National Bargee Travellers Association (NBTA) is opposed to the CRT system of auctioning its directly managed moorings to the highest bidder. The level of opposition to the mooring auctions among boaters has been consistently very high since the waiting lists were closed in 2007. Of all CRT and/or BW proposals and practices, this is the one that has attracted the strongest opposition across all sections of the boating community and beyond. CRT should therefore listen to its boating customers and other stakeholders such as the London Assembly and bring back transparent, fixed pricing of all directly managed moorings, rather than attempting to stifle opposition to the auction system by refusing to consider the principle of mooring auctions in this consultation.

There is no need for auctions in order for CRT to rent out moorings. No other rental market that we know of uses this system or any like it. Rented homes, business premises, industrial sites, agricultural land, parking space and all other inland and coastal moorings are marketed with transparent, fixed prices. The owners do not need to resort to auctions to make a profit, to comply with charity law or to avoid breaching competition law.

In retaining auctions, CRT is abusing its dominant position in the inland moorings market. In controlling the speed at which vacant moorings are released to the market, CRT is creating artificial shortages in popular areas. The result is that mooring prices in popular areas such as London are artificially inflated.

These practices are unfair, unjust, underhand and socially divisive. In selling its directly managed moorings to the highest bidder, CRT is actively excluding boaters on lower incomes, in breach of its own strategic priorities. In *Shaping our Future: Strategic Priorities* (July 2012), CRT stated on page 11 that its priority is to "Encourage more people from ethnic minority and socially disadvantaged groups to discover and enjoy their local canals and rivers". In addition, in page 5 of the same document, CRT stated that "... we are transparent in all that we do". The absence of transparent, fixed pricing for CRT's moorings is not consistent with this statement.

The NBTA receives a number of requests for assistance each year from boat dwellers who are facing enforcement action because they would prefer to have a home mooring but cannot obtain an affordable mooring, or in some cases cannot find a mooring at all, in the area where they need to live.

The mooring auction system acts as an obstacle and a disincentive to these boaters who would prefer to license their boat with a home mooring. This is because people on low incomes are not capable of being the highest bidder in an auction, and because of the artificial scarcity of moorings created by CRT's practice of not releasing all its vacant moorings to the market in order to create bidding wars.

CRT's declared aim is to reduce the numbers of live-aboard boaters without home moorings (see for example the CRT Council Briefing Paper on Non Compliant Continuous Cruising of 27 September 2012). However, the mooring auction system discourages many boaters from taking a mooring and is therefore counter-productive to this aim. At the same time as its harassment of boaters without home moorings has escalated, CRT has made it more difficult to obtain a directly managed mooring. If CRT's aim is to persuade more

boaters to take moorings, then it must make it easier and cheaper to do so, otherwise its spending on enforcement will rise and its potential to gain income from mooring fees will be compromised.

The obvious conclusion is that CRT is using the mooring auction system together with the enforcement process to exclude live-aboard boaters from its waterways completely, and is not concerned about whether they take moorings. Indeed its recent practice of refusing to renew the licences of new boaters without home moorings whom it considers not to have complied with its legal requirements, unless they take a permanent mooring, while at the same time making it extremely difficult to obtain a mooring and inflating mooring prices, is dishonest, draconian and unlawful. Forcing a boater to take a mooring to avoid having their licence terminated and their home seized when CRT has deliberately made moorings overpriced and scarce is nothing less than extortion.

The CRT web site states that CRT follows HM Government's Code of Practice on Consultation. This consultation fails to meet the standards set out in the Government Code of Practice. This Code of Practice is based on the judgment in R v Brent LBC ex parte Gunning [1986] 84 LGR 168 ("Gunning"). Whenever consultation is carried out by a body that exercises statutory powers the consultation must comply with the requirements set out in Gunning. These are:

"To be proper, consultation must be undertaken at a time when proposals are still at a formative stage; it must include sufficient reasons for particular proposals to allow those consulted to give intelligent consideration and an intelligent response; adequate time must be given for this purpose; and the product of consultation must be conscientiously taken into account when the ultimate decision is taken".

In allowing a period of only 28 days for this consultation, CRT has breached the Government Code of Practice and the Gunning requirements, which specify 12 weeks as the minimum time to allow those consulted to give intelligent consideration and an intelligent response. CRT is therefore required to extend the period of this consultation until at least 29th December 2014.

**National Bargee Travellers Association  
November 2014**