



18 Market Place
Bingham
Nottingham
NG13 8AP
Tel. 0845 - 370 9500
Fax. 0845 - 370 9501
Website - www.bcu.org.uk
Email - info@bcu.org.uk

Mr Mark Lloyd
Chief Executive
Angling Trust
Eastwood House
6 Rainbow Street
Leominster
Herefordshire
HR6 8DQ

7th August 2013

Dear Mark,

Thank you for your letter dated 26th July 2013 with regard to our responses to the recent BBC article.

As you saw from our response, we thought the article highlighted some of the issues between our two sports. However, I felt there was a danger of polarising the debate without considering the wider range of interests on our waterways.

You have highlighted a number of extracts from the article and a couple of points you requested us to respond for you prior to your meeting with Ministers of which I am very happy to assist you with. That said, would it not be more productive to include the BCU at the meeting so there would be a fair and open debate? In the meantime our answers to your questions are as follows:

Point 1 – Our spokesperson indicated that we have attempted to work with other organisations, including the Angling Trust, for many years. Frankly, the result has been a very small number of restrictive, unworkable agreements not meeting demand, and hence the comment that we are not in favour of access agreements i.e.. River Lune at Rigmaden where only a very small number of paddlers could book in with the local Estate to use the river over a seven day period at restricted times of the year. The arrangement was not accepted by Canoe England as it did not fulfil our position statement for the shared use of unregulated waters.

Canoe England strongly supports the Government policy of promoting arrangements of the type negotiated by the University of Brighton on the Rivers Mersey and Waveney. These schemes have produced principles and a benchmark for VAAs (Voluntary Access Agreements); forming the basis of government policy for the shared use and access to inland waters to be achieved by the voluntary route.

CE believes that this should be applied as the national standard for VAAs. The research has demonstrated that it is possible to achieve;

- All year round access supported by an Access Code outlining responsibilities of all water users.
- Environmental protection as appropriate eg setting mutually agreed minimum river levels.
- Respect flora, fauna, and other users
- Identified sites for launching and landing
- Publicity and information dissemination of VAAs

Even so, the government sponsored access studies also clearly demonstrated on the Rivers Teme and Wear how the policy for Access Arrangements can be unsuccessful.

The River Greta in addition to the Rivers Mersey and Waveney is an excellent example of how organisations including the Environment Agency, National Trust can work with river users to ensure government standards to Access Arrangements/Agreement are adhered to. Paddling on the Greta takes place throughout the year but takes into account the environmental considerations such as water levels as well as other users including anglers.

VAAs as on the Greta are an instrument that provides a certainty of shared use and access without conflict. Canoe England has asked to work with the Angling Trust on a number of occasions and to identify where they see potential access arrangements working. We have not received a satisfactory response for further discussions on this subject.

For VAAs to work they are dependent on other water users and the riparian owners commitment for secure access managed on a self-regulatory management basis. It is unrealistic to expect an organisation such as CE to have powers to enforce canoeists to abide by VAAs. Many canoeists are independent of CE and we encourage all to follow the guidelines of such arrangements. However experience shows that most canoeists do respect such advice as on the Greta, Waveney and Mersey.”

Point 2 - I read with interest the views of Jonathan Karas QC. This is the only (independent of the Angling Trust) legal challenge we have received. His comments, whilst interesting, do not include any form of evidence that would assist anyone to draw a similar conclusion to his that we are misunderstanding the law of public rights of navigation. We would welcome a full written report of his understanding of the law.

Once again I would like to reiterate that the law is not clear regarding the general public right of navigation. This opinion is also expressed by Defra who have recently confirmed that the law relating to the use by boats on non-tidal, unregulated rivers is uncertain. This uncertainty causes frequent disputes on rivers between people who think that they have a right to boat on a river and those who think that they have not. The Government has stated that it does not intend to clarify the law. Thus this is a suitable time to consider whether the two national representative bodies with the greatest interest in this law, the Angling Trust and Canoe England, can come to a working agreement which would end most disputes.

Canoe England considers it probable that the Magna Carta and the Act for Wears and Fishgarths 1472 confirmed that there was, and is, a PRoN on all navigable rivers.

It is hoped that the Angling Trust will respond positively to Canoe England's invitation to meet without preconditions to discuss our respective understandings of the law.

I would also like to respond to the question that canoeists are just like anglers – need to buy a right from a landowner to use the waterway. May I remind you that ownership of riparian land is the bank and bed only and not the water that passes over it. Anglers pay for the right to fish as they occupy the site for the purpose of utilising a resource ie fish. With regard to licensing, I would like to again quote from the Environment Agency commissioned report 'W266 Effects of canoeing on fish stocks and angling'.

'In canoeing, with the exception of specific navigation authorities, licensing is not required'. 'Licensing of anglers is a specific fee charged in relation to the national fishery service provide by the Environment Agency, whose fisheries activities encompasses a range of statutory obligations. It is difficult to envisage how a parallel can be drawn with a national licence for canoes in relation to the service that would be provided. In the absence of an identifiable service provided in return for a licence, inevitably this would be regarded as a tax. In addition in the absence of fundamental legislative change for access, licensing as a tool to provide facilities for greater access would be nonsensical'.

It is a fact that no public funding is spent on pursuing our access campaign.

As mentioned in previous correspondence I do not see why we have to agree on our two legal opinions to take the matter of Access Arrangements forward.

Could you please inform the Ministers that in the short term Canoe England believes that the best way forward is for the Angling Trust to provide a list of rivers on which it would like to see VAAs of the Government's Waveney and Mersey type arrangement. I assure you that when this list is received CE will support all efforts to bring their arrangements into effect. When they have been negotiated we believe there will be a new attitude to access which may provide the opportunity for further progress.

I look forward to hearing from you following your meeting in October.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Paul Owen', with a small dot at the end.

Paul Owen
Chief Executive