

# FW: Invitation: BIS Pubs Stakeholder Round Table, Thursday 13th June, 10.45 - 11.45

11 August 2015

10:08

|         |  |
|---------|--|
| Subject | <b>FW: Invitation: BIS Pubs Stakeholder Round Table, Thursday 13th June, 10.45 - 11.45</b> |
| From    | [redacted]   |
| To      | [redacted]   |
| Sent    | 18 July 2013 18:53   |

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**From:** [redacted]

**Sent:** 24 May 2013 18:19

**To:** [redacted]

**Cc:** [redacted]

**Subject:** Invitation: BIS Pubs Stakeholder Round Table, Thursday 13th June, 10.45 - 11.45

FAO Steve Corbett

Dear Steve,

Pub Companies and Tenants Consultation: Invitation to Stakeholder Round Table

As you will be aware, the Government is currently holding a consultation on establishing a statutory Code of Practice and an independent Adjudicator to govern the relationship between pub companies and their tenants.

We are keen to have an open consultation and to hear the widest possible range of views and to that end we are arranging a number of round tables with stakeholders from across the sector. I would like to invite you to a round table meeting with representatives from tenants and licensee groups on Thursday 13 June from 10:45 to 11:45am. The meeting will be hosted by Jo Swinson, Minister for Employment Relations and Consumer Affairs and will be held in the BIS offices at 1 Victoria Street, London SW1H 0ET.

I do hope you will be able to attend. Please contact [redacted] in the Consumer and Markets team in BIS [redacted] to confirm your attendance, or to nominate an alternate if necessary.

Yours sincerely

[redacted]


[redacted]

[redacted]



# RE: CONFIRMATION: BIS Pubs Stakeholder Round Table, Thursday 13th June, 10.45 - 11.45

30 July 2015  
14:54

|             |  |
|-------------|--|
| Subject     | <b>RE: CONFIRMATION: BIS Pubs Stakeholder Round Table, Thursday 13th June, 10.45 - 11.45</b>       |
| From        | <u>Pubs Advisory Service</u>   |
| To          | [redacted]   |
| Sent        | 12 June 2013 15:45   |
| Attachments | <br>Pubs Advis... |

[redacted]

Please note regarding the round table tomorrow clearly there will be lots of participants and we may not get time to say all that we would like.  
Please find below a copy of our notes for the meeting / minister, could you see the she gets a copy (see attached).

Regards

Chris  
Pubs advisory service

**From:** [redacted]  
**Sent:** 11 June 2013 14:20  
**To:** Undisclosed recipients:  
**Subject:** CONFIRMATION: BIS Pubs Stakeholder Round Table, Thursday 13th June, 10.45 - 11.45

Dear All  
Many thanks for confirming your attendance on the above ministerial roundtable meeting. Please report at reception at our BIS office, 1 Victoria Street London SW1H 0ET and asked for myself.  
Please find below a list of attendees.  
Any questions please call.  
Many thanks  
[redacted]

Kate Nicholls, Strategic Affairs Director, Association of Licensed Multiple Retailers  
[redacted]  
Tim Hulme, CEO British Institute of Innkeeping (BII)  
Mike Banner, CEO CAMRA  
Steve Corbett, Fair Pint  
Clive Davenport, Federation for Small Businesses  
Martin Caffrey, Federation of Licensed Victuallers Association  
Dave Mountford, GMB Union  
John Madden, CEO Guild of Master Victuallers (GMV)  
Bill Sharp, GMV

Simon Clarke, Independent Pub Confederation (IPC)  
Inez Ward, Justice for Licensees  
Chris Wright, Pubs Advisory Service (PAS)  
Jo Swinson, Minister for Employment Relations and Consumer Affairs (host)  
BIS

[redacted]  
[redacted]  
[redacted]  
[redacted]  
[redacted]

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The Business in You campaign highlights support for start-ups and growing businesses, and encourages entrepreneurial spirit. For more information search online for "business in you".

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## Pubs Advisory Service Ltd

(BIS office roundtable 13th June 2013)

*"To launch a trial is often more expensive than the amount invested"*

The imbalance of power and various abuses has been reported and commented on widely by the various select committees stretching back over 9 years. Various trade bodies have sought to "head off" reforms by incorporation of a self regulatory process (SRP) – this being low cost, low regulation and using as little red tape as possible.

The current trade offering of SRP would highlight major areas of concern for anyone entering the trade, namely that over the last three years:

- being presented with a Code of Practice (COP) that has not met the minimum requirements of the *framework code* behind it
- not being able to see the framework code behind it as it isn't published on most pub company or accrediting body websites (failure of incorporation)
- having a COP that can be subject to unlimited addendums or adjustment after sign up
- in the vast majority of cases not being able to access any of those addendums on sign up (further failure of incorporation)
- not being able to see the original accredited addendum template issued by the BIIBAS (failure of incorporation)
- having a self regulatory body that has failed to publish the current framework into its own rules (failure of incorporation)
- knowing that any code complaint you raise can be derailed or halted at anytime by your landlord (issuing of a county court claim or merest threat of) SEE APNDX 1
- knowing that self regulation process can't enforce fairness despite it being offered voluntarily by all pub companies & family brewers IFC V6 clause 35 (PICA has no power to change contract terms)

Every single company code published on BIIBAS as of 1 June 2013 is in breach of the IFC Version 6 clause 35; the minimum requirement as indicated in clause 35 does not appear in any company code. BIIBAS head Mr Bernard Brindly has indicated as much by stating "that all company COP's are currently going through re-accreditation for version 6, and the accreditation panel has specifically been instructed to ensure this part of the IFC will be in every new code." Clearly no company could find agreement with this requirement since the start of accreditation in March 2010 and the deliberate exclusion & failure of incorporation raises issues (understandably so) in the minds of reasonable people as to how the codes were accredited in the first place. Seemingly all the companies acted in unison to exclude it and with that the distribution of IFC, this important conditional offer contained in the IFC as a minimum requirement is missing from every Pub Company and BIIBAS website. Given the statement we raise questions as to why there is a need to reaccredit as previously an addendum was issued for IFC V5 The reaccreditations are more red tape and costs imposed on pub companies & brewers under SRP and a clear sign of how trade bodies lose control in having a wide ranging inconsistent approach to COP- SRP management.

Most of the smaller company codes are infact a carbon copy of each other; this would indicate the market takes its lead advice from a single source. Company codes offer little choice the industry has shown it cannot be relied upon to include the crucial clauses and incorporation of vital documentation on their own. No business should be exposed to a SRP with so many shortcomings and structural failures. In short as demonstrated above the low cost - low regulation approach overseen by trade bodies will not & cannot work in this trade.

Pub companies have made much of the ongoing support they offer tenants, this level of support can lead to public liabilities please SEE APNDX 2

The incorporation of a pubs adjudicator will however bring fairness, confidence and redress the failures of the previous trade regime. It is our view that a truly independent investigative adjudicator (based on Groceries Adjudicator) can restore confidence for licensees and stamp out bad practice however this adjudicator needs a strong statutory code with clear references to fairness in order to operate properly.

In summary: It cannot be left to new entrants to require a higher level of knowledge that is not being covered by existing training mainly because offers are being withheld or hidden from view by those very companies you wish to enter into a long term relationship with. Crucially this level of knowledge required to get a fair deal and enter the trade is so high that the majority of new entrants will never meet it and will in many cases walk into their pub of choice blindly with key information being hidden from view.

## **Pubs Advisory Service Ltd**

### APNDX 1

The various landlords recognised the need to modernise working practices owing to findings of the BISCOP – BEC - TISC and have attempted to construct a self regulatory process (SRP).

SRP is totally compromised and failed a fundamental test of fairness and normal business standards as this example demonstrates:

In the case of a Punch Taverns tenant (Mr David Mountford) who raised a complaint under the SRP the “overseeing body” was informed by Punch Taverns that the complaint would be unable to progress because the tenant (Mr Mountford) had entered into “legal action” against Punch, this action under the SRP terms is fatal to a complaint progressing. Mr Mountford was surprised (and outraged) as he not engaged any lawyers or filed any claim with any court whatsoever – despite several appeals to the “body” disputing the legal action claim and even the issuing of a statutory declaration by Mr Mountford to the “body” they simply wouldn’t investigate further or hear his complaint. With outstanding brevity Punch Taverns took Mr Mountford to court some weeks later.

This example shows how simple it was for any pubco to subvert the SRP firstly by misleading the “SRP body” who clearly make no enquires when this is disputed and (or) finally by application of a county court claim themselves. The SRP can still be easily derailed today by any pubco making a

small claim; there is no mechanism by which the overseeing body can lock the participants into the process.





# FW: Pub Companies - Government Consultation on a Statutory Code of Practice- Submission

12 August 2015

11:41

|         |  |
|---------|--|
| Subject | <b>FW: Pub Companies - Government Consultation on a Statutory Code of Practice- Submission</b> |
|---------|--|

**From:** Peter Bradley [redacted]

**Sent:** 12 June 2013 22:50

**To:** McLynchy Julie (CCP)

**Cc:** [redacted]; 'Val Spencer'

**Subject:** RE: Pub Companies - Government Consultation on a Statutory Code of Practice- Submission

Dear Julie

Thanks for getting back to me. Val Spencer will be attending tomorrow from LSL. I have copied in [redacted] as requested and also Val so that Val can pick up the meeting details.

LSL stands for "Licensees Supporting Licensees". It is a Facebook group, one of about half a dozen groups that are all about tenants' experience of working with pubcos. We have 200 very active members in LSL. The combined groups have over 1000 members. All members are current or ex tenants. All very unhappy and struggling but joining together with the hope to effect much needed change. The consultation is so important to us all and we very much hope the work your team are doing will make a huge difference.

Please let me know if you need any further information and please do pop in if you ever want to catch up more informally.

Thanks again

Peter

Peter Bradley

[redacted]

**From:** McLynchy Julie (CCP)

**Sent:** 12 June 2013 21:49

**To:** [redacted]

**Cc:** [redacted]

**Subject:** Re: Pub Companies - Government Consultation on a Statutory Code of Practice- Submission

Dear Peter

Many thanks for this. I'd be happy for someone from LSL to attend tomorrow's meeting at 10.45 at BIS (1 Victoria St, London SW1H 0ET). It's a pretty full meeting and all other organisations are just sending one representative so I'm afraid we really can only accommodate one LSL attendee not two. Could you let me know the name of who will be attending asap in the morning so we can tell reception and get a name plate made up? Thank you. If you could copy in [redacted](cc'd to this email) that would be really helpful.

Sorry this is so late and leaves you little time - I was out of the office earlier this evening and am only picking up emails again now.

Finally, forgive my ignorance - LSL is a new organisation to me - could you let me know what it stands for? I understand it is a social networking support for licensees - is that right?

Many thanks  
Julie

**From:** Peter Bradley [redacted]  
**Sent:** Wednesday, June 12, 2013 06:09 PM  
**To:** McLynchy Julie (CCP)  
**Subject:** Pub Companies - Government Consultation on a Statutory Code of Practice- Submission

Dear Julie

It was good to meet you yesterday. [redacted]

[redacted]

Since our conversation I have a couple of people from LSL who can attend tomorrow's round table meeting. Is it still possible for one, or both, to come along?

If you would like any more information please let me know.

Many thanks

Peter

Peter Bradley  
[redacted]

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# BIS - Pubs - Meeting 13th June 2013

07 August 2015

12:16

|         |  |
|---------|--|
| Subject | <b>BIS - Pubs - Meeting 13th June 2013</b> |
| From    | [redacted]                                 |
| To      | McLynch Julie (ED)                         |
| Sent    | 14 June 2013 08:57                         |

Dear Julie

Thank you for taking the reigns yesterday - I know it might be like herding frogs when you have so many individuals and not much time.

The one thing I wanted to point out, that may have been missed in the mass of information being delivered, was the statement by [redacted]. [redacted] are self regulation participants, members of [redacted], and they quite clearly have come to the conclusion that self regulation will not work and said as much.

I know [redacted] and [redacted] joined in the self regulatory process immediately after the collapse of mediation in the hope of influencing some change from the 'inside' by participation. [redacted] believed that this invitation to participate [redacted] was little more than an attempt to give Government the illusion of self regulatory progress, a way of lending credibility to a process that ultimately had no intention of delivering any meaningful change. It seems [redacted] have accepted this is the case.

[redacted]

Regards.

Simon

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# URGENT advcice please on FW: Issues affecting Public Houses Lynx 341398

18 August 2015  
12:32

|             |  |
|-------------|--|
| Subject     | <b>URGENT advcice please on FW: Issues affecting Public Houses Lynx 341398</b>                     |
| From        | [REDACTED]   |
| To          | [REDACTED]   |
| Sent        | 18 July 2013 14:06   |
| Attachments | <br>Pubs Advis... |

[REDACTED]

-----Original Message-----

From: KIRBY, Simon [<mailto:simon.kirby.mp@parliament.uk>]  
Sent: 08 July 2013 15:20  
To: BIS Correspondence  
Subject: Issues affecting Public Houses

Dear Correspondence Secretary

I have been in touch with the Pubs Advisory Service and I have received the attached document regarding concerns that the organisation has at present.

I would be most grateful if I could have a reply on these points that I may share with the Pubs Advisory Service.

Kind regards,

Simon Kirby MP

Simon Kirby MP  
[REDACTED]

-----Original Message-----

From: Pubs Advisory Service [REDACTED]  
Sent: 03 July 2013 10:23  
To: KIRBY, Simon  
Subject: RE: Bluetree Contact Form

Simon

Regarding a note for you to present to ministers I would be grateful if you could circulate the attached 22 positive impacts with all of your conservative colleagues and any special advisers in the No 10 policy unit. Some of them are all too believing of the that there are unintended consequences of statutory regulation and this would be damaging to the sector when nothing could be further from the truth.

I thank you in advance for the support & distribution.

Regards

Chris  
PAS

-----Original Message-----

From: KIRBY, Simon [<mailto:simon.kirby.mp@parliament.uk>]

Sent: 02 May 2013 14:26

To: [REDACTED]

Subject: RE: Bluetree Contact Form

Dear Chris

Thank you for your email and for being in touch.

I do not normally sign EDMs as they have no legislative impact and are hardly ever debated. However, I am always happy to raise matters directly with Ministers, as they are the key decision-makers, and if you want to let me have a note, that I can present to Ministers, I will happily raise matters with them and come back to you once I have responses.

I look forward to hearing further.

Kind regards,

Simon

Simon Kirby MP  
[REDACTED]

-----Original Message-----

From: [simon.kirby.mp@parliament.uk](mailto:simon.kirby.mp@parliament.uk) [<mailto:simon.kirby.mp@parliament.uk>] On Behalf Of [REDACTED]

Sent: 01 May 2013 15:36

To: KIRBY, Simon

Subject: Bluetree Contact Form

Name: Chris Wright  
Email: [REDACTED]

[REDACTED]

Message: Simon, you wont remember me but i used to frequent [REDACTED]. I know that you have been involved with the BISCUM and heard evidence on the plight of tied tenants. As you know Brighton has had more than its fair share of pubco churn & failures a quick call to [REDACTED] would bring you up to speed. Of all the people in the HoC you are the one i would look to for supportive statements backing reform and your signiture on EDM 1299 Your unrivaled experience working till-side should i feel be put to good effect.

I am now active in the trade myself as the head of the Pubs Advisory Service

Thank you for your support hopefully we'll be able to share a pint sometime.

Sincerely

Chris Wright  
Pubs Advisory Service

# Pubs Advisory Service Ltd

(July 2013)

## Dear Minister

As a keen supporter of British Pubs I would urge you to take a moment or two to read and reflect on the following 22 positive impacts (see further down) regarding reform of this sector.

The positive case for reform (i.e. for delivering the prime principle through Market Rent Only option)

Arguments are supported by the **Independent Pub Confederation**, including the **Federation of Small Businesses** and **CAMRA**, **Parliamentary Save the Pub group** and the **Forum for Private Business** and over 120 MP's

## Need for reform

- Delivering the prime principle (through Market Rent Only/FOT option) would free up what has become a stifled market, dominated by a handful of companies whose business models are considered by many as discredited and who have made it difficult or impossible for many small businesses, the lessees and tenants, to make a success, despite adequate or indeed healthy turnover figures.
- The pubco tied model has clearly failed and the pubs sector has been stifled by the unreasonable and unsustainable business practices of the larger pub companies. There are parallels with what happened with the banks speculation, which did so much damage to the economy. Some of the pub owning companies can be seen to have behaved in a similarly irresponsible manner, overvaluing their estates and borrowing vast sums against this, which has led to both their mind boggling levels of debt (in reality some are described as 'Zombie' companies) but also to them taking much more than is reasonable as a proportion of income from their pubs. This is damaging and destroying what would otherwise, even in difficult economic times, be viable small businesses that of course also employ local people and buy local produce.
- The negative and unsustainability of the pubco business model is evident not only from the disastrous effects it has had on many pubs,

The model is not only now failing lessees, pubs and the

communities who rely on them  
entire pub 'industry' and indeed the UK economy itself.

it is also failing and damaging the

- A statutory code, delivering the prime principle, would free up the pub sector would encourage growth as a result of a renewed, rejuvenated pub sector, with more diverse ownership that will promote entrepreneurial flair and ensure communities are able to enjoy thriving local pubs, with a good range of beers available at fair prices (which would also help breweries, as they would no longer be subject to the same unreasonable buying power of the big pubco's, who squeeze them to a barely sustainable price, in a very similar way to the way that supermarkets have done with pubs.

- The pubco's, that reform would be bad for the 'industry' and economically damaging.

The real growth opportunity is in the pubs themselves, but this will not happen without the introduction of a statutory code delivering the prime principle, this is the way to encourage fair trading within the existing tied model, deregulate the market and to create growth, something which is so vital to the British economy at the moment. Maintaining the status quo (or not delivering the prime principle) will see many hundreds of pubs continue to close each year. Reforming it would allow many of those pubs to succeed under a more competitive existing model, a different model or even new ownership.

- It is very notable that call for reform, as envisaged by the Select Committee, are fully backed by the Federation of Small Businesses and the Forum of Private Business who are all too aware, from their own members, that pubco tied lessees operate on unreasonable terms skewed very heavily in favour of the pub owning company. Both organisations back the Select Committee's insistence (now backed by Ministers) that a statutory code of practice with a genuine free-of-tie option and both have stressed the huge opportunity that exists through this to allow the pub lessees/tenants, the small businesses and the ones that actually operate the business, to innovate and thrive.

- The Save the Pub Group and CAMRA have compiled a list of examples of pubs around the country that had been deemed 'unviable' by the pubco owner, yet now were succeeding under new ownership being run on a different business model. This is a very positive trend in the sector,

Real reform – which means a statutory code delivering the prime principle (through Market Rent Only/FOT option or another mechanism/formula) would lead to this happening with hundreds and possibly thousands of pubs, who could then be taken on and operated on a different and sustainable business model.



- It is notable that British Brewing is more diverse than it ever has been and that is to be celebrated, with 1,000 breweries currently brewing up and down the country. These companies are succeeding, producing excellent products and expanding and taking on pubs, however, this will only be able to flourish with reform and ideally the MRO/FOT option. This is a clear example of where Government can and should intervene to free up and release the opportunity that exists.

## **Positive impacts for the sector, for business and the economy: -**

1. Many more pubs can survive and thrive - Through ensuring that tied licensees (of non managed) pubs owned by companies owning 500 pubs receive a fair split of the pub profits, it will make many of these pubs viable and they will therefore be able to continue to trade as well as being able to invest in their business, buy locally and employ people.
2. A greater contribution to the local and national economy – more viable/profitable pub businesses would have a very significant effect not only to the local economy but also globally to the UK economy. There would also be a notable effect on the national economy as much more of the pub profit would be circulated and reinvested
3. A net benefit to the Treasury - reform would see more tax (income tax, employers tax, VAT etc) paid as a result of many small businesses making a reasonable bottom line. It would also see a huge reduction in the amount of tax credits currently being paid to tied licensees. Factor in bankruptcy debt write off to local authority business rates and HMRC from failed pubs you are looking at close to £2m per week from taxpayers. Also fairer prices to licensees would lead to lower prices for consumers, which would lead to more beer sales which then leads to increased beer duty.
4. Greater investment in pubs – one of the biggest problems has been ‘financial doping’ i.e. the chronic and devastating lack of investment in pub estates by the leased pubco’s. This has been very damaging to pubs and allowing licensees to earn a fair deal & also seeing other operators taking pubs on would allow for much needed investment in former pubco pubs. In many cases this is the difference between viability/survival. It would also encourage capital investment through increased confidence in the banking sector as prospective leased and tenanted pub operators would be more able to raise finance for free of tie pubs as banks are reluctant to lend money to tied operators due to the high

failure rate but would do so on a fairer business model that allowed for reasonable rates of return. There would also be more investment in pubco owned pubs. On a MRO/FOT agreement, pub owning companies/brewers will have one revenue stream - rent only - and as rent is established as a factor of profitability it will be absolutely in the brewer and pub companies interest to invest in and support their lessees and tenants any rental increase will be a factor of their publicans performance and success – so the pub owning companies revenue will depends on it !) as. Unlike other commercial agreements (where rent is established on values per sq metre) pubs are valued according to the RICS rent assessment guidance using a 'profits method' rent will be directly related to nothing more than the publicans profitability. So a MRO/FOT option would actually increase the incentive for pub owning companies to invest, whereas now they all too often simply rely on collecting inflated dry and wet rent.

5. More innovation – the dominance of the pubco's has stifled innovation in the tied sector. Allowing licensees to operate on a fairer basis would in turn allow them to make decisions to build and boost their business, to be more responsive to customer demands and changing market conditions and would allow innovation and entrepreneurial thinking. More publicans will be encouraged start brewing 'in house' beers.

6. More diverse ownership of British pubs \* - reform would have the very positive effect on the pub sector as a whole which would not only no longer be dominated by the big 6 pub owning companies, but would also include much wider ownership with more pubs being owned and run by small/micro breweries (many of whom are taking on pubs and are keen to take on more) , by small pub companies run on a different model (there are many of these and they are succeeding and expanding), by local entrepreneurs and by communities themselves and by co-operatives.

\* This mainly refers to pubs in England, Scotland and Wales as the pub sector in Northern Ireland is very different.

7. More pubs in local hands – which makes the pubs as businesses more locally responsible, more connected to the local economy and more accountable to local people. Many of the small pub companies operate pubs in a geographical area as well of course of the increased ownership of pubs by local people, communities and local small/micro breweries.

8. Much better and fairer access to the pub market for small brewers leading to increased consumer choice – There will be more choice of beer - e.g. London has over 30 micro brewers, with many variations of beer, only a handful of micro brewers beers are available on the pub companies price lists - none permitted on the small family brewers lists. Name one British lager available in a pubco or brewery owned pub - there are several producers few have access

to market. With the increased demand for more range, speciality ale outlets are opening around the country, their growth only hampered by the lack of availability of free of tie outlets.

9. Discourage the main cause of diminished tied pub profitability - whilst obviously affecting the pub sector, supermarket pricing and taxation are not the primary influences over tied pubs profitability. 'tie' agreements, permitting the pub companies to over inflate the prices of products to their publicans, to in some cases over double the market price, are the main cause of diminishing pubs profitability (as is demonstrated by the accounts of pub companies and brewers who operate managed and tied portfolios - the managed pubs are flourishing despite the universal economic drawbacks of smoking bans, supermarket pricing and tax).

10. Reduce cost of entry to the pub sector - There is no reason why entry into a free of tie lease or tenanted agreement would be any more or less cost than a entry into the tied agreement and, as the free of tie operators anticipated gross profit is higher, as a result of lower open market product prices, there is a better chance of effective competition and success with other licensed operations.

11. Encourage expansion and development of smaller brewers and competitive edge of bigger ones - small brewers will be encouraged to compete on a level playing field, the micro brewery industry, the most positive growth element of the sector within the brewing sector, will have access to more pubs and their expansion permitted to develop and evolve without restraint. Bigger national brewers will be encouraged to concentrate their efforts on producing a better product instead of relying on the subsidy permitted by what is effectively a captive audience.

12. Advance brewery innovation and product development - Breweries with a popular and well priced product will flourish. Innovation and development of different beers will expand, as it has in Europe and America but with a definitive British twist.

13. Widen pub ownership groups - small and micro brewers will develop and manage their own small pub portfolios or seek to agree terms to lease or tenant them with mutually favourable terms - allowing both landlords and tenants to gain a fair proportion of profit whilst assuring them of a degree of certainty of distribution.

14. Beer will decrease in price - At the moment a tied operator must achieve around 50% gross profit to break even (less in many provisional areas). The availability of beers at as much as half the tied product price will enable improved gross profit whilst offering the opportunity to lower consumer price.

15. Reduce fixed costs - The tied model claims offer lower fixed costs (rent) this year the Association of Licensed Multiple Operators (ALMR) benchmark survey found tied rents were HIGHER than tied rents - the fact is that tied rents should countervail tied product prices - they don't.

16. Reduce variable costs - Tied agreements have much higher variable costs (tied product prices have consistently outstripped inflation - the main reason for the widening gap between super market prices and beer prices in pubs).

17. Promote stronger wholesaling variation and competition - All pub companies and brewers currently operating a tied model are essentially wholesalers, with established routes to market and delivery networks they will be in a prime position to compete, as wholesalers to the entire country, rather than a limited owned estate in an open and competitive market place.

18. Discourage market dominance - There are currently around 55,000 pubs, 20,000 are able to purchase their products in an open and free market place. International brewers largely produce lager and rarely brew cask ale they do not dominate the 20,000 free of tie market operators now, as this market offers a competitive environment, however, the tied model enables just that eventuality restraining any new brewers introduction to over half the sectors outlets.

19. Lower start up costs - On leased and tenanted agreements rent is usually payable quarterly or monthly in advance, combined with the over inflated tied product prices the start up costs for pubs under tied agreements is actually higher than for free of tie agreements.

20. Reduce pub closures - CAMRA's statistics indicate that more tied pubs are closing than free of tie pubs and in fact there are more free of tie pubs now than there were five years ago

When taking churn into account (i.e. failures of tied pub businesses and temporary closures) there is no doubt that the number of tied pub business failures is many more times higher than free houses.

21. Rebalance bargaining power between big and small business discourage abuse of dominant position of the pub owning company - self regulation could never work as it relied on moral standards whilst there were 'loopholes' in the law - a party of a mind to manipulate an opportunity presented by legal weakness will continue to do so. Government statutory regulation denies abuse of a flawed and corruptible business model which, if operated appropriately can benefit all.

22. Market Rent Only (free of tie option) reduces Adjudicator work load offering a self policing opportunity at an individual pub level - A 'market rent only' option, available to tied lessees and tenants, would enable individual operators to compare and contrast their tied agreement with the circumstances and profitability of being free of tie. It is the terms of the tied agreements, if perceived to be unfair and unreasonable that will result in tied operatives choosing to release themselves of the burden of being tied. The threat alone of this flexibility will ensure that those pub owning companies operating tied agreements will seek to maintain fairness and competitive behaviour rather than using their inflexible models as a tool to oppress their licensees.

Regards

A handwritten signature in black ink, appearing to read 'C. W.' followed by a stylized flourish.

Chris Wright

**Pubs Advisory Service Ltd**

Registered in England & Wales 07963033



# PUBS - [redacted]

07 August 2015

12:19

|         |                                 |
|---------|---------------------------------|
| Subject | <b>PUBS - [redacted]</b>        |
| From    | [redacted]                      |
| To      | [redacted]; McLynchy Julie (ED) |
| Sent    | 20 July 2013 12:36              |

Dear Julie and [redacted]

I attach this email thread to further assist you in your deliberations as a supplemental submission to my original regarding the [redacted] formulaic approach under consideration as a mechanism to deliver fairness and a tied licensee being no worse off than if they were free of tie.

[redacted] The process of dispute resolution is the same as that to be followed in the event the parties can not agree the rent using the formulaic approach proposed in the Public Consultation document.

**I have essentially used the formulaic approach proposed in the Governments Public Consultation to justify the tied rent at review. The outcome of the rent review at [redacted] will provide BIS with evidence of the Government proposed approach in action.**

I aim to demonstrate three things of the formulaic approach :

1. Its too time consuming, increasing costs and deterring use
2. Its too expensive, inhibiting implementation
3. It is not accepted amongst the surveying community, generally due to conflicts of interest (even independent arbitrators and third party experts) leading to 'skewed' results

What the formula **does do** is provide licensees with a bargaining tool if the Free of Tie (Market Rent Only) option is also made available to them. It informs through transparency the parties of the likely estimated free of tie rent, AND earnings of the licensee, might be.

[redacted]

This effectively demonstrates just one reason why a formulaic approach is not the answer to delivering 'tied licensee no worse off' - it is simply too time consuming.

My final supplemental submissions in this regard will be the third party invoice - demonstrating how cost will inhibit effective implementation of the Governments commitment - and the actual rent result, which I have no doubt will NOT effectively countervail the excessive prices paid for tied products.

Regards.

Simon Clarke

[redacted]





# FW: Statutory Code for Pub Companies - additional information and research

04 August 2015  
16:07

|             |   |
|-------------|---|
| Subject     | <b>FW: Statutory Code for Pub Companies - additional information and research</b> |
| Attachments | [ATTACHMENT WITHHELD - ALREADY PUBLISHED]   |

**From:** Kate Nicholls [redacted]  
**Sent:** 17 September 2013 17:50  
**To:** [redacted]  
**Subject:** Statutory Code for Pub Companies - additional information and research

When we met at the Ministerial Round Table meetings earlier this year, I mentioned that the ALMR would be publishing its revised Benchmarking Data this summer and you asked if I could feed this in as part of the ongoing assessment of policy in this area. The Report has only just been finalised and released publicly and I have attached a full copy of the Benchmarking Report for your information.

[redacted]

I know that the consultation has now closed, but given the polarity and variation in the industry's responses, if you feel it would be helpful to meet to discuss any aspect of our research or to touch base on any matters arising from the consultation process, please do let me know. I should be more than happy to provide any additional information, insight or background and am frequently in Westminster and available to meet at any time.

Kind regards  
Kate

**Kate Nicholls**  
**Strategic Affairs Director**

**Association of Licensed Multiple Retailers**  
[redacted]

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# Re: SUPPLEMENTAL EVIDENCE - PUB COMPANIES AND LICENSEES - A GOVERNMENT CONSULTATION

07 August 2015  
12:21

|             |  |
|-------------|--|
| Subject     | <b>Re: SUPPLEMENTAL EVIDENCE - PUB COMPANIES AND LICENSEES - A GOVERNMENT CONSULTATION</b> |
| From        | [redacted]   |
| To          | McLynchy Julie (ED)  |
| Cc          | [redacted]   |
| Sent        | 27 September 2013 13:23  |
| Attachments |  |
| ts          | [ATTACHMENT WITHHELD - ALREADY PUBLISHED]  |

Dear Julie

Many thanks for your email.

Whilst reviewing the Fair Pint submission I noticed there are a few developments that probably should be added as supplemental to questions 7 and 11, especially now we have seen how much reliance there has been on the closure statistics from the FOI recently published.

Basically the closure statistics, continually quoted in OFT reports, Impact Assessment and practically all the submissions from [redacted] are NET closure figures and do not include 'transfers' from one sector to another. Some pubs are transferred, therefore recategorised, from Non Managed to Free, all be it for a short time pending planning permission for alternative use, (this is not shown in the 'Net Closure' figures) when they do close, due to their recategorisation, they DO show up in Net Closures.

The impression, to anyone looking, in is that Free is declining at the same rate as Non Managed (mostly tied) where in reality when you include transfers Free is growing.

I appreciate you have to draw the line somewhere on evidence but I believe both points are pertinent (and short) so if you do have the opportunity to consider the attached I would be grateful.

I believe these points will be expanded upon in press releases and reports in the not too distant future but thought you should have the heads up before hand.

Regards.

SIMON CLARKE

-----Original Message-----

From: McLynchy Julie (CCP) [redacted]  
To: 'simon clarke'  
CC: [redacted]  
Sent: Wed, 25 Sep 2013 14:34  
Subject: RE: SUPPLEMENTAL EVIDENCE - PUB COMPANIES AND LICENSEES - A GOVERNMENT CONSULTATION

Dear Simon

Many thanks for this and for your other emails. Apologies for not coming back to you before. Just to say that we're working through all the consultation responses and evidence at the moment and will obviously look at everything you've sent in as part of that. We'll be in touch as and when we have any questions and if there's any further information we'd find it helpful to have.

Best wishes

Julie

[redacted]

**From:** [redacted]  
**Sent:** 19 September 2013 14:24  
**Subject:** SUPPLEMENTAL EVIDENCE - PUB COMPANIES AND LICENSEES - A GOVERNMENT CONSULTATION

Dear Julie and [redacted]

I appreciate you will be coming to the end of your deliberations. Please find the final piece of the rent review puzzle.

We have a rent reduction so many will argue that we have 'won' but in reality we still do not have a rent reflecting our tied terms and as such remain substantially worse off than if we were free of tie.

We ran the BIS proposed formulaic approach and, even without a reasoned determination from the third party, it seems clear this has been ignored.

The fact that, if a MRO option were available we would have no hesitation in taking it, and be almost £30,000 better off, clearly demonstrates the voluntary system in conjunction with unclear [redacted] guidance is offering little more than a nod to rebalancing risk and reward.

[redacted]

I remain hopeful that this Government will put an end to it.

Many other issues have been highlighted by our review, the flaws in the Independent Expert procedure, failure to disclose information and the cost of procedures. All can be overcome with a MRO option, I have already outlined in previous submissions a draft deed of variation demonstrating how relatively simple it can be.

[redacted]

Regards.

Simon Clarke

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# FSB to Vince Cable - 4 October 2013

11 August 2015

10:24



## Federation of Small Businesses

The UK's Leading Business Organisation

### Press & Parliamentary Office

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Tel: 020 7592 8100 Fax: 020 7233 7899 Web: www.fsb.org.uk

The Rt Hon Dr Vince Cable MP  
Secretary of State for Business, Innovation and Skills  
Department for Business, Innovation and Skills  
1 Victoria Street  
London SW1H 0ET

4 October 2013

### Re: Impact of Pub Companies on Tied Publicans

I am writing concerning your deliberations as to whether to establish a Statutory Code and independent adjudicator for the tied pub sector.

We fed in our views to your recent consultation earlier in the summer, and we now wish to draw your attention to additional new data from our recent survey. The survey underpins those views and adds weight to our position that a Statutory Code, enforced by an independent adjudicator, is required for the tied sector.

In the past, almost 90 per cent of our tied publican members have indicated they would like to be free of the beer tie so that they can compete effectively in the market place. More recently we commissioned a survey of over 500 tied publicans, all of whom are non-FSB members. The results are overwhelming. **Almost 90 percent (99 per cent in London) said they would take a free-of-tie option with an independently assessed fair rent if this were on offer; and 98 per cent agreed that they would have more confidence in the future of their business if they were free of the tie.**

We believe the survey provides further evidence that the self-regulation of pub companies is failing, and that a Statutory Code enforced by an independent adjudicator is necessary for the effective regulation of the seven biggest pub companies.

In addition, the results show support for a range of measures that would not only stem the tide of pub closures and the ripple effect this has on communities and high streets, but would bolster local economies - taking measures to prohibit other products being tied; providing tied pubs with the right to sell a guest beer; enshrining the right to request an open market rent review; and giving tied tenants the option to go free-of-tie by paying a market rate rent only. **Our survey showed that if tied publicans were free of the tie 75 per cent would take on more staff and 91 per cent would deal with microbreweries, providing a further boost to the industry and small business.**

We very much hope this survey will be of use and contribute to your thinking as you respond to the consultations you have received and develop the Government's position. The full survey results are enclosed.

.../2

Registered Office: National Federation of Self Employed and Small Businesses Ltd.,  
Sir Frank Whittle Way, Blackpool Business Park, Blackpool, FY4 2FE

Registered in England No: 1263540

Should you wish to discuss these findings further and how we can help you develop this important area of public policy then please feel free to contact my office via to set up a meeting.

Yours sincerely

  
**Mike Cherry LIWSc FRSA**  
**National Policy Chairman**

