

**Mitchells & Butlers**  
27 Fleet Street  
Birmingham  
B3 1JP  
Switchboard 0121 498 4000

**Pubs Consultation**  
**Consumer and Competition Policy**  
**Dept for Business, Innovation and Skills**  
**3<sup>rd</sup> Floor, Orchard 2**  
**1 Victoria Street**  
**Westminster**  
**London**  
**SW1 OET**

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**Pub Companies & Tenants: A Government Consultation**

**Mitchells & Butlers Plc Response to Proposed Statutory Regulation**

**Dear Sir**

We are writing to you in response to the request for views on the recently published proposals for statutory regulation of the UK Pub Industry.

Mitchells & Butlers is the leading operator of managed pubs and restaurants in the UK operating close to 1,600 sites through a managed pub structure. These managed pub operations employ a total of 40,000 people, delivering an annual turnover of £1,855m in 2012.

In addition to our managed pub estate we currently operate 60 businesses through a leased model, and this number is declining. These businesses are typically sites which do not fit a managed pub or restaurant brand but where the asset quality is such that an independent operator is able to trade a successful business. Whilst these sites are important to us they represent only 4% of our total estate and as a result our main business focus is our core managed business.

In setting out our response to the questions posed in the consultation document we have addressed only those areas where we are more directly affected, or where we are in a position to contribute to the debate. These responses are outlined below.

**Question 2: Do you agree that the Code should be binding on all companies that own more than 500 pubs?**

**Question 3: Do you agree that, for companies on which the Code is binding, all of that company's non-managed pubs should be covered by the Code?**

As outlined in our introduction the Mitchells & Butlers estate comprises close to 1,600 managed pubs and restaurants, of this which only 60 are operated under a leased agreement, with a further 22 leasehold sites (free leases) sub-let to bar and restaurant tenants, as a consequence of being unable to assign the leasehold interests upon disposal, who pay only a rent to ourselves. We do not believe that these free leases should be covered by any proposed Code given the nature of the business relationship.

The 60 leased sites equate to only 4% of our entire estate being operated under the leased/ tenanted model that we believe is intended to be targeted through the consultation. Whilst we are committed to our leased estate and allocate sufficient resource to support these businesses, our core focus will continue to be our managed estate.

Given the small number of pubs we operate under a leased/ tenanted model, both in absolute terms and as a proportion of our total estate, we strongly believe that any threshold should relate to the number of leased/tenanted pubs operated, and not the total number of businesses, irrespective of whether they are leased or managed. We remain committed to self regulation and will continue to operate our small number of leased pubs in line with the BBPA Industry Framework Code. To date we have not received any complaints from any our tenants with whom we are actively engaged and we have no reason to believe this would change should we fall below the threshold for inclusion within any statutory regulation

**Question 5: What is your assessment of the likely costs and benefits of these proposals on pubs and the pubs sector?**

We believe that compliance with statutory regulation as currently proposed would have a disproportionate impact on the leased estate of Mitchells & Butlers. Using the indicative costs provided in the consultation document the one off cost of the adjudicator to Mitchells & Butlers would be £120,000 which together with the additional £168,000 per annum suggested as an annual ongoing cost of compliance would bring the total cost to Mitchells & Butlers of £300,000 in the first year of operation. Whilst it is very difficult to produce a more accurate forecast at this stage, an annual cost of £300,000 would equate to £5,000 per pub across our small 60 pub leased estate. We consider this to be a completely unrealistic cost burden on our leased business. In addition the work involved in preparing for, and ongoing compliance with, statutory regulation would be significant for a team that consists of only two full time business managers and one full time Head of Department. This level of resource is sufficient to support the day to day management of our leased estate. However, any additional administrative burden would shift some focus away from supporting our tenants. Should statutory regulation be introduced then the costs and resources anticipated would necessitate us to conduct a review of the long term viability of our leased operations.

**Question 6: What are your views on the future of self regulation within the industry?**

Mitchells & Butlers remains committed to working in line with the Industry Framework Code, and to date operating in this way has not generated a single complaint from any of our tenants. We currently work in accordance with Version 5 of the Industry Framework Code and by the end of the year we will have updated our own internal code of practice in line with Version 6. We continue to take the view that our tenanted business model is only successful if strong long term relationships between us and our tenants are developed and remain committed to supporting our tenants to be successful. We believe that continuing to operate in this way is sufficient to ensure that our tenants continue to be treated fairly and are protected as the Code intends.

Should a dispute ever arise we recognise the existing role of PICAS in acting as an independent arbitrator. Given our commitment to self regulation, and the clear evidence to suggest that it is working for us and our tenants, we believe continuing along this route puts our tenants at no disadvantage. Our proven track record, both prior to and during the period of self regulation we believe speaks for itself and coupled with the small scale of our leased operations demonstrating our effective working relationship with our tenants, means we would welcome the opportunity to continue to operate this way.

**Question 13: Should the Government appoint an independent adjudicator to enforce the new statutory code?**

**Question 17: Do you agree that the adjudicator should be funded by an industry levy with companies who breach the code paying a proportionately greater share of the levy? What in your view would the impact of the levy be on Pub companies, Pub tenants, consumers and the overall industry?**

If costs towards the adjudicator are, as proposed, based on the total number of businesses operated and not just the number of leased pubs operated, not only would Mitchells & Butlers be included in the statutory regulation but the size of our managed estate would mean that despite having only 60 leased businesses we would contribute one of the largest shares of the initial cost of the adjudicator at the commencement of the statutory code. This would be wholly inequitable and disproportionate.

Whilst we agree with the proposals that the industry levy should revert to a system based on those generating most complaints bearing the biggest share from the second year onwards this initial cost alone would be considerable and disproportionate. We have outlined in our responses above the reasons why we feel our inclusion within this threshold is not equitable or what is intended.

In summary we confirm our commitment to ensuring a fair deal for pub tenants which we fully believe we are delivering. We remain committed to self regulation and will continue to operate a code of practice in line with the Industry Framework code. Given the small scale of our leased operation we feel that our inclusion in any statutory proposals is not appropriate.

We remain committed to our leased estate and our relationship with our tenants across 60 sites and we currently divert sufficient time and resource towards ensuring the business functions effectively.

Should you have any further questions please do not hesitate to contact us.

Yours sincerely

**Sally Ellson**  
**External Communications, Mitchells & Butlers**