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**From:**  
**Sent:** 11 June 2013 17:16  
**To:** Pubs Consultation Responses  
**Subject:** Pub companies and tenants  
**Attachments:** 13-718RF-pub-companies-and-tenants-a-government-consultation-response-form GS completed.doc

Dear Sirs,

Further to the anonymous questionnaire I completed on line yesterday, I attach a considered response amplifying my support as a consumer for the BIS proposals and in particular for there to be a mandatory market rent only option for tenants/lessees/franchisees of large pubcos within the statutory Code.

Thank you for your attention.

Yours faithfully

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03/12/2013

## Pub companies and tenants - A government consultation

Response from \_\_\_\_\_ as a consumer  
and in the volunteer capacity of Pubs Officer for the \_\_\_\_\_ Branch of  
the Campaign for Real Ale (CAMRA)

From \_\_\_\_\_

To Pubs Consultation  
Consumer and Competition Policy  
Department for Business, Innovation and Skills  
3rd Floor, Orchard 2  
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Westminster SW1H 0ET

Via Email: [pubs.consultation@bis.gsi.gov.uk](mailto:pubs.consultation@bis.gsi.gov.uk), 11 June 2013

|   |
|---|
| Please tick one box from a list of options that best describes you as a respondent. This will enable views to be presented by group type. |
| Representative Organisation   |
| Trade Union   |
| Interest Group  |
| Small to Medium Enterprise  |
| Large Enterprise  |
| Local Government  |
| Central Government  |
| Legal   |
| Academic  |
| Other (please describe): Consumer   |

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

## Consultation questions

### **Q1. Should there be a statutory Code?**

Yes. Voluntary regulation in the industry has not worked. Four years ago research undertaken for the Campaign for Real Ale Ltd (CAMRA) found that 67% of large pub company licensees earned no more than £15,000 pa. Latest research figures quoted at the Parliamentary rally held in Committee Room 10 at the House of Commons on 5 June show 84% of them earning less than £15,000 pa and 60% of them earning less than £10,000 pa.

### **Q2. Do you agree that the Code should be binding on all companies that own more than 500 pubs? If you think this is not the correct threshold, please suggest an alternative, with any supporting evidence.**

Yes. However, the legislation will somehow need to guard against the possibility of pub companies such as Punch Taverns and Enterprise Inns fragmenting themselves into any number of smaller companies in order to circumvent the application of the Code. As a matter of principle, I cannot see why it should ever have been deemed acceptable under competition law for a property company that does not itself brew beer to control which brewers' beer can be supplied to its tied publicans and at what price.

A brewer and its tied publican share a common objective: the competitive supply of good quality beer to increasing numbers of satisfied customers. On the other hand, there are many cases in London where the objective of the recklessly indebted pub company seems to be to sell the pub as soon as possible for the higher property value it can command for alternative use. In pursuit of that objective, supply of poor quality beer will drive customers away sooner so that the company can claim that the pub is no longer viable, while conscientious publicans who look after their beers become an embarrassment. For examples of Enterprise Inns' victims see the [Enterprise Inns' victims](#) website, run down for many years and now converted to housing, and the [Enterprise Inns' victims](#) website, a thriving community pub with a great choice of beers but now part of a cafe-bar chain with self-contained flats upstairs. Both are fully documented on the [Enterprise Inns' victims](#) website.

### **Q3. 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?**

Yes.

### **Q4. How do you consider that franchises should be treated under the Code?**

I believe that franchisees should not be forced to accept any restrictions on their choice and terms of supply from their pub company landlords. A market rent only option would seem fair for them and their customers.

**Q5. What is your assessment of the likely costs and benefits of these proposals on pubs and the pubs sector? Please include supporting evidence.**

For licensees, paying market rent only offers considerably less red tape than at present as purchases can be made directly with brewers and other suppliers. It cuts out the middle man and provides a simpler business model. And most pub company pubs would be able to reduce their beer prices significantly and attract many more customers as their beer would cost them so much less. Pub companies typically surcharge their licensees by about 70% over the price they are charged by the brewers. My son is a small brewer. I know the kind of price he charges. Talking to licensees, I know the kind of price they are charged. One Enterprise licensee told me last week that without having to buy his beers through Enterprise, he would be able to sell them 50p a pint cheaper.

We now have more than 1000 breweries in the UK; in London alone we have nearly 50. And yet as a result of the likes of Punch and Enterprise making beers so prohibitively expensive, the number of pubs continues to diminish as their tenants cannot make a living. The result of the proposals, if the market rent only option is accepted, will be a thriving pub sector, with all the employment, higher tax revenues, community social welfare and public health benefits as responsible consumption of moderate quantities of lower strength alcohol becomes more affordable.

**Q6. What are your views on the future of self-regulation within the industry?**

Self-regulation within the industry has plainly failed to deliver a better deal for licensees, many of whom have gone out of business and seen their pubs demolished or converted to estate agents, betting shops or supermarkets (fuelling a binge-drinking culture with cheap spirits, as successive official reports, e.g. from the Department of Health and the British Medical Association have noted).

**Q7. Do you agree that the Code should be based on the following two core and overarching principles?**

- i. Principle of Fair and Lawful Dealing*
- ii. Principle that the Tied Tenant Should be No Worse Off than the Free-of-tie Tenant*

Yes, both.

**Q8. Do you agree that the Government should include the following provisions in the Statutory Code?**

- i. Provide the tenant the right to request an open market rent review if they have not had one in five years, if the pub company significantly increases drink prices or if an event occurs outside the tenant's control.*

- ii. Increase transparency, in particular by requiring the pub company to produce parallel 'tied' and 'free-of-tie' rent assessments so that a tenant can ensure that they are no worse off.**
- iii. Abolish the gaming machine tie and mandate that no products other than drinks may be tied.**
- iv. Provide a 'guest beer' option in all tied pubs.**
- v. Provide that flow monitoring equipment may not be used to determine whether a tenant is complying with purchasing obligations, or as evidence in enforcing such obligations.**

Yes, all of these.

**Q9. Are there any areas where you consider the draft Statutory Code (at Annex A) should be altered?**

Yes. See Q11.

**Q10. Do you agree that the Statutory Code should be periodically reviewed and, if appropriate amended, if there was evidence that showed that such amendments would deliver more effectively the two overarching principles?**

Yes.

**Q11. Should the Government include a mandatory free-of-tie option in the Statutory Code?**

Yes, in other words a market rent only option.

**Q12. Other than (a) a mandatory free-of-tie option or (b) mandating that higher beer prices must be compensated for by lower rents, do you have any other suggestions as to how the Government could ensure that tied tenants were no worse off than free-of-tie tenants?**

I believe that only (a) will deliver that objective. There can be no excuse for pub companies charging tied tenants higher beer prices than the tenants could obtain on the open market. A beer tie will be mutually advantageous only if a pub company can pass on to its tenants the benefit of any lower price bulk purchasing contract it may be able to negotiate with a brewer.

**Q13. Should the Government appoint an independent Adjudicator to enforce the new Statutory Code?**

Yes.

**Q14. Do you agree that the Adjudicator should be able to:**

*i. Arbitrate individual disputes?*

*ii. Carry out investigations into widespread breaches of the Code?*

Yes, both.

**Q15.** Do you agree that the Adjudicator should be able to impose a range of sanctions on pub companies that have breached the Code, including:

*I. Recommendations?*

*II. Requirements to publish information ('name and shame')*

*III. Financial penalties?*

Yes, all three.

**Q16.** Do you consider the Government's proposals for reporting and review of the Adjudicator are satisfactory?

Yes.

**Q17.** Do you agree that the Adjudicator should be funded by an industry levy, with companies who breach the Code more paying a proportionately greater share of the levy? What, in your view, would be the impact of the levy on pub companies, pub tenants, consumers and the overall industry?

Yes. I do not believe that the costs of the Adjudicator, proportionately funded mainly by the larger or less compliant companies, should be prohibitive, although we should recognise that consumers will ultimately be paying.

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