

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

10th June 2013

Dear Mr Cable

Re: Government Consultation Pub Companies and Tenants April 2013

As a [redacted] I have seen the industry change since I incorporated at the start of the recession in 2008. Before that, I personally was a landlord in a tied house ([redacted]) and so I have been on both sides of the fence (bar?).

My view on the government's 2013 consultation paper, "Pub Companies and Tenants by the Department for Business Innovation and Skills" is objective, balanced and based on personal experience.

I have read the paper and I am concerned that a view has already been taken in that the paper's language is not unbiased and steers the reader. That aside, it is important that the proposed bill be considerate of the following – the bill will affect the availability of recreational amenities which are dowsed in tradition, for generations to come, if mistakes are made.

Firstly the industry is changed. Prior to the smoking ban, money was in freer circulation and consumers were less keen on extracting value from their leisure spend. Post recession, the pub goer is shrewd and keen to get best value at most levels of the market. As such, many venues have closed and those owners with less keen business acumen have been subdued.

The current market requires, prior to any other consideration of [redacted], a quality operator to run a venue. The landlord of 2013 must be a businessman first and landlord second, such is the nature of the market.

. This leads on to my first point.

My experience states, as fact, the hardest part of making any venue successful is finding a quality operator. There simply is a lack of supply. In the current climate, to attract a quality operator, the pubco's need to offer a return on investment that is keeping with that required by an investment savvy businessman. As such, market forces and the potential return offered by the pub business will, given time, find equilibrium.

The pubco's who we work with (and we work with many of the largest companies) in the current climate, have to offer suitable returns, not to landlords but to businessmen who, with capital in hand, can choose where and what to invest in.

Given there is a lack of supply of quality operators available to the pub market, the next stage in keeping our countries pubs afloat and viable as businesses, is for pubco's to invest in operators that are new to the market, willing and eager to learn and crave an opportunity to become owners of businesses. As most new businesses (in all industries) fail, it is the burden of the pubco's to ensure their risk of investment in new operators is minimized. It is insane to suggest that they invest in people, their businesses and the bricks and mortar and yet be curtailed by those few that feel oppressed by an agreement that in some cases, gives an otherwise unobtainable opportunity in the first place.

Is the government suggesting that the pubco's' investments bear no fruit?

To be clear the basis of the proposed statute is clearly stated as, 'a tied tenant should be no worse off than a free-of-tie-tenant'. If this is acted, I would suggest the government may cause the industry to collapse. Where will the finance for development come from for venues, from the banks? With no investment from Pubco's venues will fail and close. Once closed, our pubs will be sold off. They will never return. Sustainability should not only be about quality of life but also our way of life.

Secondly, the pub industry as a whole has had to raise its game as substitute products and services have eaten into its base of the public's leisure spend. As this has happened, so the bottom of the market has collapsed. This is a natural macroeconomic occurrence and has little to do with the pubco's who have tried to support tenants with subsidies in tough times.

Pubco's will surely dissipate if their investment re the risk stated above is not adequately rewarded re natural market factors as investors will go elsewhere for a return. Without pubco's who is going to help and train tenants to a level of proficiency that lets them compete for the leisure pound in a leisure market that is now so very divided into many, many different leisure markets?

To summarise my first two points, as the pubco's reward and return for investment is artificially restricted by the government and the pubco's investment in people is subsequently stopped, the pubco's becomes simply property landlords. The pubs no longer have landlords that are equipped with the skill set necessary to survive in the ultra competitive leisure market of today and so, finally, droves of venues are sold, never to return as pubs. Goodbye to a traditional British way of life (and one reason for travelling to our country)!

On a personal note the potential collapse of the pubco's may see the end of
that service the market. Who will invest in
and no one available or wanting to run them?

Be under no illusion Mr Cable, the passing of this bill, as it stands will, damage my company and the people I employ (and their families) along with many support industries and most of the secondary sector works associated with the industry.

I trust this letter meets you in good mood and time is taken by you to read it in the spirit in which it was wrote, objectively.

Yours Sincerely,



Department for Business, Innovation & Skills

Pub companies and tenants - A government consultation

Response form

The consultation will begin on 22/04/2013 and will run for 8 weeks, closing on 14/06/2013

When responding please state whether you are responding as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents by selecting the appropriate interest group on the consultation response form and, where applicable, how the views of members were assembled.

This response form can be returned to:

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

Email: pubs.consultation@bis.gsi.gov.uk

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 <input checked="" type="checkbox"/>
Large Enterprise
Local Government
Central Government
Legal
Academic
Other (please describe):

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? **No**
- 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**
- 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? **Include**
- Q5. What is your assessment of the likely costs and benefits of these proposals on pubs and the pubs sector? Please include supporting evidence. **Please see attached letter**
- Q6. What are your views on the future of self-regulation within the industry? **Please see attached letter**
- 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* **Yes**
 - ii. *Principle that the Tied Tenant Should be No Worse Off than the Free-of-tie Tenant* **No**
- 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.* **Yes**
 - 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. Yes if investment in them as tenants and the property by the owning pubco forms part of the calculation.*
 - iii. *Abolish the gaming machine tie and mandate that no products other than drinks may be tied.* **Yes**
 - 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.* **No**
- Q9. Are there any areas where you consider the draft Statutory Code (at Annex A) should be altered? **Please see attached letter**
- 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? No, as *using strong arm tactics to implement, "Principle that the Tied Tenant Should be No Worse Off than the Free-of-tie Tenant" will decimate and irrevocably damage the market*

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

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? **Yes. Review the expenditure and investment of the pubco in both the tenant themselves, the building and also the business as a going concern and then compare this to the cost of the tenant starting the business alone and buying the building from scratch. If this is not the case how can you compare being better of worse off?**

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

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?*

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?* **Yes**

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

III. *Financial penalties?* **Yes**

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

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?