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From:
Sent: 14 June 2013 12:51
To:
Cc: Pubs Consultation Responses; Enquiry Enquiry (Other Government Departments)
Subject: BIS consultation - Pub Companies and Tenants

As one of your constituents I write to express my concern at both the existence and initial conduct of the consultation process launched by the Secretary of State for Business Innovations and Skills into the relationship between large pub companies and their tenants. In doing so, it is important that I firstly declare an interest. I have spent years in the licenced trade representing landlord companies, of which have been with Enterprise Inns PLC, the largest leased and tenanted pub company in the UK.

I believe that my experience has given me an informed insight into the real challenges facing the licenced trade and in particular the leased and tenanted sector. Challenges that include the effects of the 2007 smoking ban, several continuous years of recession, punitive rises in beer duty, cheap alcohol prices in supermarkets and four wet summers in succession. The consultation paper barely acknowledges this 'perfect storm' which has brutally affected the industry and instead focusses its attention on the alleged behaviour of large pub companies who, if the foreward from the Secretary of State is to be believed, have been guilty of extensive business malpractice which borders on the systematic abuse of its publicans. This foreward alleges that such behaviour is driven by the need for some of the more highly leveraged companies to retrieve their financial position at their publicans' expense.

I consider such an observation to not only be without foundation but also revealing of a deep misunderstanding of the principles of the business model that is being attacked. Pub companies operating a tied arrangement are entirely reliant on the enduring success of their publicans if the business model is to deliver sustainable growth. For publicans to succeed in this extraordinary challenging market not only requires increasingly sharp retailing skills and business acumen but a viable commercial contract with their landlord which enables business success to be sufficiently rewarded. Without this publicans cannot reinvest in their business to maintain a competitive edge and pub companies will fail to attract new applicants keen to operate their pubs. It follows that pub companies –whose income is primarily derived from commission from tied sales and rent – would be harming their own commercial interests by allowing publicans to enter into uncompetitive commercial contracts or by failing to support competent publicans in their pursuit of their share of the market. Pub companies fully recognise this and in my experience seek to act accordingly.

The allegation from the Secretary of State is that whilst some pub companies operate their tied business model responsibly others do not. Whilst I have yet to see sufficient substantiated evidence to support such an opinion it is the implied attack on the integrity of employees of pub companies that is the most disheartening feature of this consultation. In the many years that I have worked at Enterprise Inns I have never come across any fellow employee who has turned up to work intent on creating hardship for their publicans. On the contrary I have only ever witnessed a determination to operate in a fair and responsible manner. With an estate of over 5,500 pubs we make countless business decisions every day and we are acutely aware that we are dealing with not only a publican's business but their home too. We inevitably won't get every decision right even though we strive to do so. Evidently those responsible for initiating this consultation take a different view. In support of their belief that reform of the business relationship is required they cited that 'the British Institute of Innkeeping has received over four hundred complaints on its hotline over the past three years..... the vast majority were about pub owning companies with large numbers of tied pubs'. This is simply not true. The BII have confirmed that out of 276 calls from Enterprise publicans between 2009 and 2012 (a ratio that is high as a result of our scale and our payment of initial BII membership fees for our publicans) there were in fact just four complaints, averaging one per annum. It is a great pity that those responsible for the composition of this consultation paper have not chosen to spend

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any time visiting our offices, witnessing for themselves the work undertaken by our head office staff or perhaps accompanying our Regional Managers to see how they conduct their dealings with our publicans. Had they done so they may have been a little less inclined to be so receptive to the views of the unrepresentative vocal minority who are seeking major change to the commercial relationship with seemingly little regard for the wider consequences for the industry.

I have been part of a business that in the past 4 years has invested over £250m in improving the quality of its estate and in providing discretionary financial support to deserving publicans. During this period our net income per pub has fallen by 12% and we have not paid our shareholders any dividends. So much for the suggestion that companies such as mine may be operating at the expense of its publicans.

Despite these efforts, despite the evolution of business practices which has brought an unprecedented level of disclosure, transparency and support to our publicans and despite real progress in self-regulation of the leased and tenanted sector we are now confronted with the potential prospect of statutory regulation and with it unwelcome bureaucracy and cost. Additionally the consultation is reviewing whether a mandatory free of tie option should be introduced. In my opinion such an option would bring with it some very detrimental consequences for those who have the wider interests of the industry at heart. More pubs than ever would be sold for alternative use as landlord companies with only one potential source of income (rent) seek to maximise their earnings. Marginal pubs would close as landlord companies, who no longer had a shared interest in the sales performance, would cease the financial subsidy that has sustained many such businesses through the recession. Publicans would lose the extensive range of advisory and support services provided by pub companies on which they have increasingly relied. Consumer choice would be affected by not only more pub closures but by more restricted brand choice, with smaller brewers having difficulty gaining a route to a market that would become increasingly dominated by international brands.

There remains an opportunity to prevent inappropriate reform taking place but it will be dependent on those in positions of influence articulating a more reasoned view than has been apparent from some of the MP's who see increased regulation and intervention in existing commercial contracts as a positive step. I hope that I can count on your support on this issue although if you have any queries on the subjects raised in the consultation I would be delighted to have the opportunity to discuss them with you.

Yours sincerely

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