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12th June 2013

Vince Cable MP
Departmental for Business, Innovation and Skills
1 Victoria Street
London
SW1 0ET

Dear Dr Cable

Re: Pub Companies and Tenants

I would be very grateful if you would take the time to read my letter, and send me a response.

I can assure you that during this challenging economic climate we have worked tirelessly to support our business, maintain our high personal standards and help our Publicans. We do sometimes make mistakes, but we are committed to resolve all issues when they arise.

I am gravely concerned that the Government Consultation is unable to solicit a balanced view of pub companies and the industry that I care deeply about. What we seek to do goes far beyond just doing our job, we are completely committed to the pub industry. I am really surprised by the approach taken by BIS and I was especially disappointed with the Foreword that you signed.

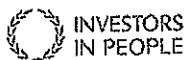
In trying to understand the position that you have taken I decided to go to first principles and I read the Preamble to the "Constitution of the Liberal Democrats". There are many fine principles contained within your Constitution. Although it is not expressly stated in the Preamble I think there is a deep desire to promote fairness, an absolute desire to seek the truth, even when you do not like what it tells you and a real desire to understand both sides of an argument, even when you may only like to hear what one side has to say.

I have tried to keep my letter brief. I have sought to explain where I feel the approach to the Consultation has fallen below a standard of fairness that I may reasonably expect from our Government.

Foreword from the Secretary of State

You have written that *"the activities of the major pub companies, have intensified the crisis"*, that *"popular pubs being driven to the wall by, frankly, exploitative financial practices"*, and that *"the evidence I have received makes it clear that in too many cases tenants are being exploited and squeezed"*. These are all very inflammatory statements, which will do little to build bridges within our industry. I have been unable to identify the evidence to support these views within the Consultation document. I would be very grateful if you could point me to the specific pages where these statements are supported by evidence.

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You write that *"The Government is committed to ensuring a fair deal for tenants and I look forward to hearing from all who have a view on how to achieve this."* I am also keen that you ensure there is a fair deal for the pub companies, but I cannot see how you have tried to address this concern.

Evidence

I could only find two pieces of evidence contained with the review that you are placing reliance upon, which are:-

1. The survey conducted by CGA
2. The belief that there have been a number of complaints submitted to the British Institute of Innkeepers (BII) over a four year period

I have also found evidence in the report that you do not appear to apply any weight to, which includes but is not limited to the fact that:-

- 70% of tied publicans would sign up again with their pub company
- Free of tie pubs are more likely to close than tied pubs
- In a four year period the BII received **FOUR** complaints about Enterprise Inns

Evidence – CGA Survey

The report refers to the CGA survey that estimated 46% of tied publicans earn less than £15,000 a year during the recession. There appears to be no credit given to the finding by CGA documented in section 3.6 of your report that 70% of tied publicans would sign up with their pub company again. I was left wondering how high would this percentage need to be to give you comfort that tied tenants are satisfied with the relationship. I tried to imagine how secure a Prime Minister would be with 70% of the population ready to "sign him up" for another five year term.

Evidence – Error in stating the number of complaints from Publicans

I hope that you are now aware that contained within the Consultation documents was a simple misrepresentation of the facts regarding the number of complaints received by the (BII). In section 3.3 of your report your team wrote:-

"The British Institute of Innkeepers has received over four hundred complaints on its hotline over the past three years. Some of these complaints were on other issues, but the vast majority were about pub-owning companies with large numbers of tied pubs."

This statement is completely incorrect. The BII confirmed that there had been over 700 calls to their helpline over a four year period, of which 276 calls were from Enterprise publicans between 2009 and 2012. On the basis that we own over 25% of the tied pubs in the UK, and we pay the subscription fees for all our new tenants this is hardly surprising. The BII went on to say that of the 276 calls from our publicans, only **FOUR** were classified as complaints. I am staggered that BIS could confuse these phone calls with complaints.

I did expect BIS to remove **ALL** references to the erroneous statement from the document, and replace this error with the truth.

You refer throughout the consultation document to the fact that the self-regulatory code has delivered some helpful benefit to tenants, but you go on to say the current system has not done enough. I think you could have chosen to use the information that there were only **FOUR** complaints to the BII over a four year period as a real sign that there was progress in our industry.

Evidence – Free of tie pubs are more likely to close than tied pubs

Contained within the Impact assessment is the following information (sections 16 and 17) :-

"The decline [in the number of pubs] is widely recognised to be due to a range of factors, including changing cultural habits, increased taxation, the rise of low-cost selling at supermarkets and the smoking ban.

Some campaigners argue the tie plays a factor, but pub numbers do not support this. Figures from the latest CGA Study commissioned by CAMRA show that between March 2010 and September 2012 the closure rate was lower in tied pubs, 4.3%, than in free of tie pubs, 4.5%. The 'net closure' is the more appropriate statistic to use as it takes into account 'churn', where pubs close for a short period then reopen. However, if one uses gross closure figures then proportionately even more free of tie pubs are closing, 3.4% versus 5%."

If you accept the information that you have presented as being correct, I do not understand why you made no mention of this data in your Foreword. In the interest of balance would it not have been reasonable to point out that the failure rate was higher in pubs that were free of tie?

The on-line survey

I tried to complete the on-line survey on the BIS website, and I have struggled to understand how you will be able to present this as an objective study.

Question 2 asked:-

"Self-regulation has been tried since 2004 but has not worked – too many tenants are still being badly treated and facing hardship. The Government therefore considers that it needs to introduce statutory legislation to regulate the relationship between pub companies and tenants."

You have presented an opinion that self-regulation has not worked as a FACT and you have also presented the opinion that too many tenants are still being treated badly, as a FACT.

Initially I wondered whether the spirit of Leni Riefenstahl had guided the hand of whoever prepared the survey. I hope that you are personally embarrassed by the obvious bias contained within the on-line survey. The on-line survey in no way seeks to solicit a balanced view of the proposals; it instead represents opinion as fact, and leads any user to reach a predetermined conclusion. I hope that you recognise the need to seek independent views on the suitability of the content and style of the on-line survey.

I hope that you understand that I believe this is deeply undemocratic, is a direct betrayal of the values of liberty and has happened on your watch.

The style and content of the survey is in blatant conflict with the first sentence of your Constitution,

"The Liberal Democrats exist to build and safeguard a fair, free and open society, in which we seek to balance the fundamental values of liberty, equality and community, and in which no one shall be enslaved by poverty, ignorance or conformity"

Extract from the Preamble to the Constitution of the Liberal Democrats.

I am very interested in your views on this matter. I am also specifically interested in your opinion on the extent to which the construction, content and style of the on-line survey is compatible with the principle of your political party, and the standards we should expect of our Government.

The approach to the on-line survey in conjunction with the lack of evidence and the refusal to recognise all the progress that has been made has led me to conclude that BIS has acted in a manner below that which we should reasonably expect from any fair government. I struggle to see how this approach is compatible with the ideals that you have signed up to in the Preamble of your Constitution.

Next steps

I would be grateful if you would consider taking the next steps.

1. Please give our industry the opportunity to continue with self-regulation
2. Please stop the annual review of our industry. I wonder whether your team are aware just how much energy and time is consumed with these reviews. Every year we seem to be prevented from focusing 100% on pushing the business forward.
3. Please follow up on your commitment to reduce bureaucracy and burden on companies.
4. Please take further meaningful steps to reduce the tax burden on pubs and help us to create a level playing field with other sectors.

Enterprise Inns

I would be grateful if you looked to build a strong business relationship with our Company, and if you could find the time to really understand how we work relentlessly to make our Publicans successful.

I imagine that all tenants, in all sectors across our economy would like to pay lower rents, or would like to have more assistance. I believe that our business model provides a fantastic opportunity for an entrepreneur to build a business, and create a home for their family. I do not blame anybody who wants to get a better deal. I do however struggle when people make unfounded accusations against our Company, or against the honesty and integrity of our people, or simply present opinions as fact.

I am constantly surprised by the volume of abuse that we receive from Greg Mulholland MP, who in my opinion has lost sight of any sense of balance and is determined to pursue a personal vendetta against our Company. I feel that some of the campaigners view this process, along with the OFT review, and the previous Select

Committee hearings as simply sport, where they hope that if they repeat outrageous allegations enough times people will start to believe what they are saying.

If you had spent time with us, before writing your Foreword I think you would have been in a much better position to promote an open and fair review. I would respectfully ask that you consider the following points before reaching any conclusion on this review.

1. I would be delighted if you could take the time to come to our office and meet our people, see the work ethic and commitment that is displayed in all of our teams. We would welcome the opportunity to take you into the field so that you could observe our Regional Managers and Divisional Property Managers, working hard alongside our Publicans.
2. Despite extremely challenging times we have maintained our commitment to invest into our business. In the last five years we have completed over £300m of capital investment into our estate. We will invest £60m this financial year, and during this year we have completed the external refurbishment of over 400 pubs.
3. I hope you are aware that Enterprise Inns created the SIBA direct delivery service to help independent brewers access our estate. Currently our Publicans have access to over 1,500 different beer brands, and we are supplied by over 300 different brewers.
4. I think there has been considerable progress in the last five years, and you should recognise that a number of checks and balances have been put in place during the recruitment process, to make sure that there is a clear understanding of what is expected on both tenant and landlord at the start of an agreement.
5. In our 2012 audited accounts we reported that our rent on a like for like basis in our current estate has declined by an average of 12% since 2008. We went on to explain that over the same period the average discounts that we offer to Publicans on the cost of a barrel of beer had increased 76% from £37 per barrel to £65 per barrel.

Thank you for taking the time to read my letter, and I look forward to your response, and arranging for you to visit our dedicated team.

Kind regards

Yours sincerely
Enterprise Inns plc

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