



## 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](mailto: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 <input checked="" type="checkbox"/> X
Small to Medium Enterprise
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?**
- 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.**
- 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?**
- Q4. How do you consider that franchises should be treated under the Code?**
- Q5. What is your assessment of the likely costs and benefits of these proposals on pubs and the pubs sector? Please include supporting evidence.**
- Q6. What are your views on the future of self-regulation within the industry?**
- 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***
- 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.***
- Q9. Are there any areas where you consider the draft Statutory Code (at Annex A) should be altered?**
- 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?**

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

**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?**

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

**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?***

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

***III. Financial penalties?***

**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?**

There should not be a statutory code.

Government interference in the past has caused many problems for the industry.

The Beer Orders of 1989 created the large Pub Companies when Brewers were forced to sell pubs as they were not allowed to have more than 2000 tied tenancies. Lease were virtually unheard off before this. The reaction from the industries was to introduce leases.

The main problem at the moment is the quality of the tenants. Good operators with business skills will build a profitable business, have great standards and they just get on with it, Poor operators complain and blame the pub companies for their lack of success due too their lack of skills, poor business practice and lack of drive.

It is in the Pub Co's interest to support tenants and give them assistance to ensure the business is a success for both parties. Many do not accept advice when given they also abuse the properties and have poor standards.

The opportunities are there to obtain a business for very little capital outlay with usually excellent private accommodation included.

The Pub Co business model is quite unique and should be supported by the Government and not shackled by additional legislation.

I am a retired regional manager with 25 years experience in the tenanted and leased sector. I have worked for a Pub Co and a Family Brewery.

Please feel free to contact me if I can be of any assistance. I am on holiday from 11<sup>th</sup> May to 12<sup>th</sup> June

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