

Documents published on 7 August 2013 in response to Freedom of Information Act requests relating to Pubs

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1 Question and Answer document

Q&A about the Government's consultation on Pub Companies and Tenants

1. What is the evidence that there is a “problem”?

Between 2004 and 2011 the House of Commons Business, Innovation and Skills Select Committee (and its predecessors) produced four reports on the issue which concluded that there were persistent problems in the industry and which eventually concluded that the self-regulatory approach had not been sufficiently far-reaching and that government action was required.

The Government issued a call for evidence in Autumn 2012 on the industry's progress in implementing self-regulation. The responses showed clear evidence that significant numbers of individual publicans were continuing to face serious hardship and difficulties in operating in the pub industry. Throughout this period the Government has also received significant correspondence from MPs enclosing correspondence from their constituents about problems in their relationship with their pub company. Some of the correspondence received from the public on the pub industry has now been published on our website at www.gov.uk.

The Government therefore decided to consult on establishing a Statutory Code and independent Adjudicator for the pubs sector to govern the relationship between large pub companies and their tenants.

2. Who contributed to/wrote the consultation?

The consultation and accompanying impact assessment were drafted by BIS and agreed across government, using evidence from a variety of sources and drawing on meetings with a range of stakeholders across the industry.

3. How did government decide which individuals and organisations should be consulted and how were they consulted?

The Government thought carefully about who needed to be consulted to capture the full range of stakeholders affected. We issued a full public consultation to allow detailed responses from those who wished to respond in this way. We also issued a short, easy to access survey to capture responses from those who might not have otherwise responded to the full consultation. In addition, three roundtable discussions were held with stakeholders across the industry during the consultation period. This has allowed us to obtain a wide range of views. In total 1135 responses were received to the consultation and 7038 responses were received to the online survey.

4. What is the CGA Strategy survey referred to in various parts of the consultation?

CGA Strategy provide statistical information about retailers and food and drink suppliers. In May 2011 CGA Strategy produced a survey on the Industry Framework Code which was commissioned by the BBPA and IPC. The survey is referenced in the consultation document.

5. Didn't Government mislead the public by referring in the consultation document to complaints to the Bill helpline rather than calls?

The Government acknowledges that the figures quoted in the consultation and the impact assessment mistakenly referred to "complaints" rather than "calls". This was clarified in the press statement issued by the British Institute of Innkeepers on 29 April 2013. The Government will take this into account when interpreting consultation responses provided by anyone who might have been misled by this.

6. Did Government review and consider Version 6 of the Industry Framework Code?

The draft Code of Practice contained in the consultation draws on the existing Industry Framework Code but the consultation proposed a strengthening of the Framework Code to address the fundamental issues of risk and reward and to ensure the core principles of fairness and that the tied tenant must be no worse off than the free-of-tie tenant.

7. How would the Adjudicator carry out its functions and decide whether there has been a breach?

The consultation proposed that a pubs adjudicator should be based on the model used for the Groceries Code Adjudicator. Under this model it would be the Adjudicator's responsibility to consult on draft guidance about how the Adjudicator would perform his/her investigation and enforcement functions.

8. When is the Government intending to introduce a Pubs Adjudicator Bill?

Whether a Bill is introduced will depend on the outcome of the consultation. We are currently considering the evidence brought forward during the consultation and on that basis we will decide how to act. We intend to publish a Government Response to the consultation in the autumn.

2 BIS email to Greg Mulholland

From:
Sent: 11 January 2013 11:47
To: 'greg.mulholland.mp@parliament.uk'
Cc:
Subject: Pubs meeting

Dear Mr. Mulholland,

Following the announcement and debate on pubs this week, the Minister (Jo Swinson) would like to have a meeting with you and other members of the APPG-SPG, to discuss the forthcoming consultation on a pub code and adjudicator.

Key questions that the Minister would like to explore include:

- Should the Code include a mandatory free of tie option?
- Other than the two overarching principles already announced, are there any other particular elements that should be addressed in the Code (taking V6 as the starting point)?
- Who should the new regime apply to? (All companies with over 100/200/500 pubs/tied pubs/tied leases)?

She would also of course be very happy to hear any other points you wish to make.

If you confirm that you would like to come to this meeting, I will ask the Minister's diary secretary to arrange a time. I hope to hear from you soon.

Regards,

P.S. Thank you for your kind words about BIS civil servants in Wednesday's debate - it was appreciated.

SW1H 0ET | Direct line: | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street,

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3 Emails between BIS and Greg Mulholland

D13 / 669886

From:
Sent: 01 March 2013 11:18
To: 'MULHOLLAND, Greg'
Cc: 'SUTHERLAND, Gregor'
Subject: RE: Pub Companies and Licensees
Follow Up Flag: Follow up
Flag Status: Orange

Dear Greg,

Apologies for my delayed reply. Firstly just to address a couple of your more general points.

Firstly, I fully agree (and can assure you that Ministers are fully committed to) delivering the prime principle. My comment about delivering Minister's objectives was simply to reflect the fact that, as a civil servant, that is my role: to deliver their objectives.

Secondly, as Government, when considering legislation we are obliged to consult with all the principal stakeholders who have an interest in that legislation. That is why both the Minister herself and officials have met the pub companies, just as we have also met many different licensee groups (including Simon Clarke, Dave Mountford, Fair Pint, CAMRA, etc.), some multiple times, SIBA, and so forth. We listen to all the arguments put forward but that doesn't mean that we take any of it (from any party) at face value without testing it, or are obliged to agree with it.

On to the more detailed points:

- I'm glad you agree on the 'all non-managed pubs' point. I can also see very strongly the merit behind your arguments on the straight 500 figure. I agree also it is crucial to allow Ministers to alter this threshold in future (I actually think there may be merit in Ministers being able to amend the Code in future too, if there is evidence that it needs to be altered).

- I do agree with you that both a free-of-tie option and a formula that would ensure higher beer prices are balanced by lower rents need enforcement and further calculation. However, I disagree in that I think that the process in both is actually quite similar. The crux of the matter in both is working out what the fair open-market rent is under a free of tie option; once you have that, doing the adjustment for tied is quite easy. We've been working up a formula that I've discussed with a number of stakeholders (including IPC) and think we may be almost there. We can present both options in the consultation.

- Just to confirm that I was not intending to suggest that all we need are transparency and arbitration. This is clearly not the case, though transparency are part (though only part) of the solution.

- Countervailing benefits: some are certainly quantifiable (e.g. free Sky - the benefit is what the licensee would have to pay to buy it themselves); some may not be. Put simply, if a pub company cannot quantify them, and quantify them robustly in a way that can stand up to scrutiny by the Adjudicator, they cannot use them in the formula. It's up to them. But not allowing genuine SCORFA to be counted could lead to a lack of incentive for good companies to invest in their pubs, which would not be good for anyone.

- I agree, I can't see major brewers withdrawing from the wider market to only sell to their own houses. That would almost certainly be a commercially poor decision given the volumes they sell in the wider market. I think I understand your other arguments in the brewing/pub company section. Agree this is worth exploring.

- Finally, on the mandatory free of tie option, Ministers are simply concerned that we consult on things openly to avoid unintended consequences. The last time Government intervened in this market, the Beer Orders, led to massive unintended consequences including, most probably, the fact that we are in the situation we're in today. The last thing Ministers want is a repeat of history. The Secretary of State has made clear that the mandatory free of tie option will be on the table; we will consult on it openly, and that will give those who argue that it will have negative consequences (brewery collapse, pub closures etc.) to put forward their evidence, and those who believe it is the best way to go to put forward their evidence that there won't be negative consequences. Consulting openly on the best way of achieving the prime principle is the best way of ensuring that Ministers have all the information they need on which to base their decisions (and we will of course publish the consultation responses) and take the decision that is best.

As before, very much welcome this informal dialogue, but must emphasise for the record that the views in this email have not been cleared by my Ministers and therefore reflect my emerging thoughts.

Regards,

Greg Mulholland, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET | Direct line

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From: MULHOLLAND, Greg [mailto:greg.mulholland.mp@parliament.uk]
Sent: 13 February 2013 17:07
To:
Cc: SUTHERLAND, Gregor
Subject: RE: Pub Companies and Licensees

Hi

Have a little bit of time to respond to your helpful email. I have addressed some of the points below, in blue.

Three other general points.

First of all, I need to pick you up on a phrase in your most recent email. The key thing is NOT "to get it right so that we can successfully deliver *Ministers' objectives* on the prime principle". The key thing – the unequivocal commitment made by Ministers - is to deliver the prime principle! That has to be

19/07/2013

clear and understood, the question simply is how to do this in a achievable, demonstrable, verifiable way.

I also have to point out that it is wholly inappropriate to be treating the BBPA as a stakeholder to be part of the consultation in coming up with code content. They represent the very companies who have done the damage to the trade and whose deliberate and cynical attempt to stall any real reform has lead directly to the Government having to act. *They oppose the prime principle that the Government has signed up to deliver – so why ask them how to deliver it!!* It is like asking RBS how to deal with the Libor scandal, it isn't a sensible or credible (or indeed ethical) way to deal with the problem that Ministers have now clearly accepted is still there. ***You don't ask the companies who have been guilty of overcharging and exploiting how to stop the overcharging and exploiting!***

They continually deploy misleading arguments and are now desperately trying to prevent (yet again) any meaningful reform – which is still perfectly possible if the Government loses its nerve and simply puts onto the statute book a code with no clear mechanism to stop the overcharging and abuse of position. They had their chance, they blew it and it is time for the solution to be brought forward without giving them another chance to derail it. Please let's remember that the Select Committee report in summer 2011 slammed the BBPA as showing itself to be "impotent in enforcing its own timetable for reform". Then as we know, BIS Ministers decided to negotiate a non legislative deal with the same impotent BBPA, who then of course did exactly the same thing again failing to enforce its own timetable, which I said they would – because they don't want reform and will do just about anything to prevent it!!! So please, why are BIS giving them yet another chance to be at the negotiation table, just so they can have yet another crack of doing it again!! They have the same right as anyone else to contribute to the formal consultation, but should not be involved in pre consultation discussions as a party who can assist the Department. Their goal is simple, to see to derail the process and to ensure that Ministers do not actually deliver their clear commitment to ensure that tied licensees are not worse off than free of tie licensees.

Finally, can I ask you to let me know what concerns officials and Minister have over the MRO (market rent only) option. This is not clear. As this remains the obvious and easiest way to deliver the prime principle, it is important to know what issues you think there are and any reasons for not pursuing this. Having worked on this issue intensely for five years, I am all too aware of the misleading and in some cases dishonest arguments put forward by the BBPA and their pubco members. None of these must be used as a reason for Ministers reneging on the promise to deliver the prime principle, so I would be very grateful if you could give me any reasons or arguments you/Ministers see for not introducing a mandatory MRO option.

Thanks again - and happy to correspond in this way and also to meet/chat if you think that is useful.

Best wishes,

Greg

From: I

Sent: 07 February 2013 09:10

To: MULHOLLAND, Greg; SUTHERLAND, Gregor

Cc:

Subject: RE: Pub Companies and Licensees

Greg,

Thank you - I'll look forward to hearing your thoughts in due course. I'll be discussing with others in the industry, including Simon, Brigid, Julian etc. over the next couple of weeks to get their views too.

As you say, the key thing here is to get it right so that we can successfully deliver Ministers' objectives on the prime principle.

Regards,

..., Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor,
1 Victoria Street, SW1H 0ET | Direct line:

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From: MULHOLLAND, Greg [<mailto:greg.mulholland.mp@parliament.uk>]
Sent: 06 February 2013 15:50
To: ...: SUTHERLAND, Gregor
Cc:
Subject: RE: Pub Companies and Licensees

Hi

Thanks for this - and this very helpful approach. No-one thinks that this is a simple area of policy, least of all me, so it is essential to discuss implications and loopholes of any proposals.

I will have a mull over this and get back to you, very happy to be as helpful as I can in assisting the Department with the big challenge of both getting it right and fulfilling its commitment to ensuring that tied licensees are not worse off than free of tie licensees.

Best wishes,

Greg

From: ...
Sent: 06 February 2013 10:24
To: MULHOLLAND, Greg; SUTHERLAND, Gregor
Cc: ...
Subject: Pub Companies and Licensees

Dear Greg,

Thank you for coming in yesterday to see the Minister - I know that she will have found it very helpful to discuss this matter with you.

I'd like to take up your offer to raise a few initial thoughts/questions on the paper you presented yesterday, emphasising that these are just my initial reactions, not the views of the Minister or of Government as a whole. As indicated, this includes a potential pubco loophole!

2. Who should the Code apply to

I'm concerned that your proposed definition leaves a large loophole that the pubcos could use. If the code only applied to tied houses, as soon as a pub became free of tie it would be outside the legislation. So if a licensee opted for the free of tie option, there would be nothing to stop the pubco raising the rent above 'open market' rate. Equally, if this was brought in a pubco could decide to make all its houses free of tie but simultaneously treble the rent - there'd be no recourse for the licensee. Because of this, my current view is that a statutory code may need to apply to all of a pubco's non-managed pubs. (There is a question about where franchises fit in, which I agree with you we'll need to explore in the consultation).

Yes technically you are right, but this is rather an issue of use of sloppy terminology on my/our part. Of course, what I/we are referring to is all leased/tenanted/franchised pubs. In other words, any sub letting arrangement. There must be a clear legal definition that covers this (rather than focusing on tied/FOT).

I'd also like to discuss the rationale on why you suggest the threshold is 500+ pubs rather than 500+ non-managed pubs. Though I've no strong feelings, the first could potentially have perverse consequences if a company with 550 managed pubs chose to open one (or bought) one that was non-managed/tied.

This is very important. In terms of pub ownership figures, this very clearly has to refer to all pubs owned by a company, not only how many tied pubs they may have. This is the principle of the Beer Orders and it is notable that a similar situation of market dominance by very large companies, in a different way, has led to the Government to have to intervene again to make the market work - which was the principle of the reforms back then. The point is market share/dominance, not the model of individual pubs and where some companies operate managed and tenanted/leased houses, then the code must apply to them, even if they have fewer than 500 pubs. So the (deliberately) confused talk of 'only legislating for two companies' is mistaken and missing the point, that in the end this issue has arisen because the largest companies abused their power and distorted the tied business model.

In terms of a de minimus, I do believe that it is reasonable to set this at 500 pubs, to avoid including the family brewers, none of whom have more than this number of pubs. If they expanded and did, it would be right for them to be subject as the same framework as the other larger companies. Current talk of not wanting a 'two tier' system for pubs is a deliberate attempt by the BBPA etc to (ironically) try to have the family brewers included, because they know that there will be much greater pressure to resist Ministers delivering the prime principle. The family brewers have long been used as a fig leaf by the big leased pubcos to present the tie as a good thing, knowing full well that people, including Ministers and MPs, are generally favourable to them. So for reasons of both fairness (recognising that there are companies who do offer lower rent for higher prices) and also to make it easier to get legislation through, I think the 500 limit makes sense. The challenge then is working out how the pubcos could get round this through restructuring etc. What is crucial here is to include in the legislation a clause for Ministers to alter this limit in the future if needed. This was what should have been in the beer orders and wasn't, which led to the disaster than once the giant stand alone pubcos had emerged, the rule of owning 2000+ pubs was not changed to include all companies, not just those

who don't brew beer. (The big irony is that the beer orders were designed to break up the monopoly of the 'big six' giant pub owning breweries who owned around half the pubs in the market. Now we have the 'big 6' pub owning companies – Punch, Enterprise, Star, Admiral, Marstons & Greene King who own around 20,000 pubs - around half the market!!)

Incidentally, I see no reason why there could not be one code for all (to deal with the arguments being mischievously put forward to suggest this) but with a clause that says all 500+ pub owning companies must be covered by the mechanism to deliver the prime principle.

4. Delivering the prime principle

Broadly agree with your two options; as we discussed in the lifts, just to confirm that both options would require enforcement. I'm not sure the latter is as hard as your document suggests, given some of Simon Clarke's statements (e.g. this, on PMA message board the other week: *"Put simply work out what you would earn FOT take that from the tied net profit before rent (NPBR = divisible balance) and there's your tied rent. Genuine SCORFA's can be incorporated as a cost saving (increasing the tied NPBR) and therefore the rent.!*). There may also be other ways of putting this - but we can explore all that in the consultation.

It may be possible to come up with a formula to prevent the overcharging (for that is what the prime principle means). A way to do this has been suggested to me: Essentially the discounts available in the open market need to be separately identified and included in the profit assessment to which a percentage may be applied to define what the free of tie rent would be and the earnings for the tenant were they to be free of tie. If that profit is insufficient to ensure that the tenant has a liveable income, proof required, then the rent should be reduced accordingly to give a lower free of tie rent. From that calculation of a free of tie rent should be deducted the exact equal of the discounts available in the open market thus arriving at the tied rent.

The issue is the ability of the adjudicator to police this. The MRO option would not need policing in the same way – the key there is to have a clear, fair and independent process for identifying this. So the concern with an alternative mechanism is, even if it is robust, that it would not be realistic for the adjudicator to intervene in cases where it was being ignored or abused.

I have also made clear to pro reformers that the MRO option also needs to be worked up and is not just a simple principle, but has to be worked into a legislative form that actually delivers the prime principle, by preventing the overcharging. This only happens, of course, if it is a genuine market rent, not rental levels currently being charged in the market by pubcos for rent only agreements – they are higher than market rents, to compensate for the pubco losing their wet rent. Hence needing a proper process. The MRO option would also have to outlaw both upward only rent reviews and inflationary increases as neither are related to the market value of the rental, which can go down as well as up and is not linked to price inflation.

So a MRO option needs to be fleshed out, to ensure that it does stop higher than market rents being charged as is currently the case but also how it could be legitimately changed, reviewed altered - to reflect changing market conditions and when will it be reviewed/assessed again after the first independent assessment. People must of course also retain the right to exercise their option

the other way - so signing up for a (competitive!) tied agreement!

Work also needs to be done with regards to 'independent' as RICS have failed on this and are conflicted, with pubco people and money involved. So this needs to be overhauled and a clear statutory framework put in place that stops any manipulation (incidentally, even if an alternative mechanism rather than an MRO option is introduced, there would presumably still have to be rent assessments so this would still apply! *This is another argument for the MRO, because if you are having to do the rent assessments anyway to establish rent, why not let that be the solution, rather than simply a benchmark for a formula that also involves regulation and policing of beer pricing*).

5. I have to disagree here - SCORFA is at the heart of the beer tie, its justification in the EU Block Exemption and how it's meant to work. I fully accept there appears to have been a major issue around pubcos inflating the value of SCORFA and using it to justify high rents, but equally other companies do provide genuine SCORFA worth significant amounts to licensees and that can actually be quantifiable. Simon Clarke's quote above would also seem to support that some SCORFA is genuine and can be taken into account. The trick is (a) enforcing transparency so that SCORFAs can be clearly seen and quantified and (b) enforcing via the Adjudicator who could take a view on the genuine value of these in delivering an open market rent review or, if a company had been systematically inflating these to break the prime principle, impose sanctions such as fines.

This is not a major point, but I have to say that legally tied does not necessarily mean certain pricing, in that a tied product arrangement simply means one that restricts products/supplier. It is still a legally, by definition, tied agreement even at wholesale/brewery prices. You are right that the model of the beer tie as operated by most companies in the UK does involve higher prices for lower rent and you are right that the old SCORFA principle worked on the basis of countervailing benefits. But you can have a tied agreement without that (as in my idea of a tied MRO agreement).

I am concerned here is you are suggesting (and please say if you are not) that the problem could be solved and the prime principle delivered simply by having transparency and adjudication. It will not do either. The whole sector is littered with misleading and confused figures and pricing (especially the idea that pubco list prices are 'wholesale' ones). So simply having all figures out in the open will allow ongoing manipulation of both beer prices and rent.

There needs to be either the market based solution, the MRO option or a clear, workable and verifiable formula for ensuring that rent is proportionately lower than a market rent to offset the rise in beer prices. Not having either would not deliver the prime principle and would therefore be a failure of Ministers to deliver their clear commitment - which would rightly lead to criticism and the belief that Ministers had both reneged and bottled it (can't think of a better word than that!).

I also believe that an alternative formula should only apply to rent/wet rent. This is partly to make it clearer, easier to calculate and easier to police; but also because it would ensure that tied agreements were once again fair and honest and based on the idea (as justified by SCORFA and since) that you pay a proportionately lower rent for higher beer prices. (See below).

I also need to challenge you on this idea that "countervailing benefits" are quantifiable and therefore can be included as part of an assessment of how much a tied agreement can be worth. This was not the conclusion of the OFT, indeed the OFT said that they couldn't quantify them. The biggest and worst flaw of the OFT's dreadful report was the ludicrous assertion that because they couldn't quantify the supposed countervailing benefits of being tied, they took (at face value!!) the figures presented to them by the pubcos and divided it by the number of pubs they had, claiming that showed the value of benefits to each one! That lazy and flawed assumption was a disgrace – it was certainly news to thousands of licensees who have seen no support of any value to them and little or no investment! In case you were wondering why I didn't challenge the OFT report at the time, it was alas because of the timing – the second response came in general election year so I was simply unable to. CAMRA also could not afford to take its challenge to the next stage, so they got away with it – but I can tell you it is one of the worst pieces of work I have seen from an official body, which is why it was so frustrating when Ed Davey was using it as an excuse not to act! If you ever want or need more detail on the flaw, I can provide you with it, but the good news of course is that BIS/the Govt are now acting not on 'competition' grounds so we have I think overcome this hurdle.

But to be clear. The reality is that the leased property model is entirely based on rent collection (wet and dry) and now on deliberate over-rentalisation of both. The model is not one of supportive business partnership, as the old brewery tenancies were, they have no interest in selling/showcasing their product (indeed they do not have a product – no one goes to a pub because it is owned by a leased pub company, the customers don't even generally know). The job of BDMs etc is to collect rent and yes, to listen to issues of business problems because the licensee is struggling to pay the excessive rent, but they are only necessary for that reason, not because they offer 'marketing support' etc. The only way to quantify benefits would be to ask every single tied licensee what support they have had that is quantifiable and has assisted their business (as opposed to visits from the pubco to check Brulines, to make accusations of buying out etc). That is not realistic. So it needs to be taken out of the calculation – which now that the Government is not legislating for competition reasons and therefore does not need SCOFRA/exemption principle to be involved I think.

Again, I have to say that if you allowed countervailing benefits to be included in a formula – you are making the job of the adjudicator impossible, he/she simply would not have the time to be assessing whether 'marketing' or 'business support' allegedly provided by a pubco to each specific pub was quantifiable and justifiable, it is too subjective – and much too open to pubco misrepresentation and abuse. So again, surely the better and easier way to deliver the prime principle is the MRO option which involves no need to do this....

Equally of course any 'silent charges' should lead to an equivalent discount in rent.

As above, I believe that due to the scams on insurance, repairs etc as well as the AWP tie, tie on pool tables etc that the code should allow only rent and beer prices/wet rent to be involved in the calculation, or the pubcos will simply find another way to extract the revenue lost – and would continue to overcharge through other means.

8. I assume there would be no problem in your view in also allowing the breweries under discussion to 'partially tie' under the rent only agreement - i.e. instead of saying 'you can only buy our beers' saying '60% of your beers must be our beers' or similar - provided that they still allow the licensee to buy the beer from anywhere; i.e. at wholesale places. If this would cause any concerns please let me know.

I can't see any problem with this. This whole idea does need working through in any case.

One issue that has been raised is how could this prevent a brewer from withdrawing from the freetrade and only supplying to its own houses, so as to be able to manipulate the price i.e. sell it to their licensees at a marked up cost, but with that being the only price for it (in casks and kegs) they could claim it was 'wholesale' price. I would personally think that this is unlikely if the value of freetrade (including offsales) is considerable to the big breweries, which it must be. They couldn't afford to stop selling their brands and subsidiary brewery brands in supermarkets certainly - and the price here surely can then act as a genuine wholesale price?

The big concern remains what would prevent Enterprise Inns from buying a local brewery (or several) and claiming to be a brewer. There clearly needs to be clear definitions of what constitutes a brewer that has pubs. This issue could also probably be avoided however precisely because we are still talking about a market rent only option, so whether they owned breweries or not, they still couldn't overcharge licensees - either for rent or for beer, whether they brewed it or not. (Plus if they can no longer overcharge, I wonder would they any longer have the finance to buy anything...!).

The reason for raising this idea (which is all it is at this stage) is as I explained to allow brewers who have sufficient numbers of pubs to be covered by the code, to find a way to enable them to continue to insist that some or all beers served in the pub are theirs. The principle that a brewer owns a pub to sell its beer is a reasonable one, hence my suggestion of allowing a 'tied market rent only' option in their cases. The issue that needs to be addressed is not the issue of choice of beer available as it was leading to the beer orders, it is the overcharging, so we don't need to stop brewers selling their beers in their pubs. This also helps counter the misleading idea that someone reform and delivering the prime principle will "harm brewing". So if we can prevent the overcharging yet allow genuine brewers to be able to still sell their beer through their pubs, we can decisively deal with that argument. They would still be selling their licensees beer and still making money from doing so (getting the same margin as they would from selling to the freehouse next door! Plus they still collect their fair share of the pub profit, which is the fair rent - so they still have two income sources and an incentive to support the licensee to sell more of their beer, which can only be good for those pubs!).

So this idea is certainly worth further exploration as it has the potential to maintain the link and hence the incentive for the brewing pub company to invest in the pub and offer genuine support, whilst at the same time preventing the overcharging that does and is happening in some of the large brewing pub owning companies estates.

Interestingly, the MRO option applied to all non brewing pubcos would properly

open up thousands pubs to the many wonderful microbrewers. So one very exciting consequential effect of this option would be to correct one of the biggest failings in the beer market – as it would allow pubs and their local microbreweries to deal direct with each other to mutual benefit financially and cut back on the nonsense of having to order beer from a brewery 500 yards away through your pubco head office and with it being delivered to their depot and back to the pub as happens at the moment!! (And this of course only when the microbrewery can afford to sell their beer at little more than cost price just to get on pubco lists – many can't and many won't). So this is another reason why the MRO only option remains the best one – it would be the biggest boost to our thriving microbrewing sector since small brewers relief – and would boost local economies with both pubs and the breweries benefiting (the pubs themselves become more popular as they can sell their local brew – and do so at a fair price for them and the customer - and with a significant reduction in carbon footprint. Talk about a win win. What's not to like?!

Would welcome your views on all of these points and very happy to be challenged in the areas where I've disagreed.

Hope this is useful. Thanks again for the way you are engaging on this. As I have said, I am keen to use my five years of experience of this issue and sector to assist Ministers to get the code right, to deliver the prime principle, to end the overcharging and allow licensees to take a fair share of pub profit – and in doing so strike a huge blow for the Great British pub by saving thousands of pubs that would be able to not only survive but thrive.

Regards,

, Competition Policy | Department for Business, Innovation and Skills | Victoria 1,
3rd Floor, 1 Victoria Street, SW1H 0ET | Direct line:

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4 Emails from BIS, Greg Mulholland and Punch Taverns

D13/851877

From: McLynchy Julie (CCP)
Sent: 19 July 2013 14:29
To:
Subject: FW: URGENT - serious problem with consultation survey

From:
Sent: 22 April 2013 15:33
To: 'MULHOLLAND, Greg'; I (MPST MIN); Swinson MPST
Cc: McLynchy Julie (CCP)
Subject: RE: URGENT - serious problem with consultation survey

Dear Greg,

Anyone honest will only fill in the questionnaire once - what I'm saying is that if anyone tries to cheat and fills it in 10 times we can spot it and take out those entries!

I'm not an IT professional, but this is the standard way in which Government runs these questionnaires and I have confidence in our Digital Team that they've got it right and can stop abuses. I've also offered Simon Clarke a meeting with our IT/digital people if he desires - he's considering whether to take it up - I know he's worked closely with you on this issue and I'm sure he'd be happy to pursue any outstanding concerns you have there.

On the other points, I'd emphasise that the questionnaire is simply just one of the ways in which we're reaching out and consulting. Anyone with a lot of experience and detailed points to add - such as an ex-licensee - can, and I expect in many cases will, respond formally to the consultation mailbox, setting out their evidence, which we'll then analyse. The questionnaire is deliberately made as simple as possible to reach out to all those who normally wouldn't even go near a Government consultation. We've had a lot of support from some of the organisations who are calling for action in this area (such as CAMRA) for the questionnaire.

On mandatory/compulsory: the latter was considered to be more plain English for the questionnaire, but I accept it's a judgement call. The main consultation uses 'mandatory'.

Regards,

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Victoria Street, SW1H 0ET | Direct line:

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19/07/2013

From: MULHOLLAND, Greg [mailto:greg.mulholland.mp@parliament.uk]
Sent: 22 April 2013 15:08
To: ; , (MPST MIN); Swinson MPST
Cc: McLynchy Julie (CCP)
Subject: RE: URGENT - serious problem with consultation survey

Thanks

What you seem to be saying is that people can (and therefore will) fill it in ten times each, which is barmy!

I have been told clearly that people can delete the cookies, reload the page and have another go. If I was looking to 'manipulate' the result I would pay a couple of people with IP scramblers to fill it in accordingly.

So you are aware, the pubcos do have previous on manipulating surveys in this way, it was reported to the select committee back in 2008/9! So this really is an issue.

The anonymous point could have – and should have – been covered simply by making clear that the surveys would be private between then and BIS and only aggregate totals would be published, so there just isn't a sensible reason not to ask for details.

I also need to flag up one other serious concern, that has already been raised with me: - The consultation survey doesn't have a box for ex-licensees. That is an extraordinary omission, considering how many former licensees have been affected by this business model and will want to contribute – and it is vital that they are recognised as former licensees for the survey to be a credible assessment of the views of the trade.

Finally can I just gently point out a less issue, but wrong terminology I think. I would say it is not a "compulsory" free of tie option, it is a mandatory one. A compulsory free of tie option suggests it is one that licensees must take!

Greg

From: ;
Sent: 22 April 2013 11:56
To: MULHOLLAND, Greg; ; y (MPST MIN); SWINSON, Jo (2nd Mailbox); Swinson MPST
Cc: McLynchy Julie (CCP)
Subject: RE: URGENT - serious problem with consultation survey

Dear Greg,

Concerns were raised with us that if tenants had to give their details, names and addresses they might be less willing to complete the survey.

However, I can assure you that this does not allow people to fill it in again and again. We can (and will) monitor the IP addresses from here and discount multiple responses from the same IP address. So even if someone does fill it in 10 times, only the first will be counted. This is the standard way in which we run online

questionnaires - previous consultations, such as that on the Consumer Bill of Rights, have used the same method.

Furthermore, I would add that the questionnaire is simply one aspect of the evidence which Ministers will be considering, alongside the full written formal responses from organisations such as your own, and other analytical evidence.

Happy to discuss.

Regards,

1 Victoria Street, SW1H 0ET | Direct line: 020 7035 7000 | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor,

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From: MULHOLLAND, Greg [<mailto:greg.mulholland.mp@parliament.uk>]

Sent: 22 April 2013 11:49

To:

Mailbox)

(MPST MIN); SWINSON, Jo (2nd

Subject: URGENT - serious problem with consultation survey

Importance: High

I have just been made aware of a serious issue with the consultation survey/questionnaire.

I am amazed and perplexed that this does not ask people for their details. Anyone taking part in what is a serious Government consultation over important legislation should be prepared to give their details – and must be a UK resident, with an interest in pubs.

What this also means is that it can be filled in over and over again. So the pubcos and brewers will have all their staff sat all day filling in the form – and telling their staff to identify themselves as tied licensees! Indeed, knowing this, pro reform campaigners could also sit and do this. Apparently this is easily done by deleting your Cookies and then filling it in again.

This is just a nonsense and has the real possibility of bringing the whole consultation into disrepute. Whatever outcome the survey shows, the other side will cry foul (guaranteed) and say that it can't be trusted.

I seriously suggest you put a hold on this and reissue asking for details and making it clear it is one per UK resident and all – including Greg Mulholland, Ted Tuppen and every licensee and former licensee – must say who they are, who they work for and who they represent.

Greg

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D13/772671
D13/656131

SB/BV

26th March 2013

Assistant Director, Competition Policy
Department for Business, Innovation & Skills
1 Victoria Street
London SW1H 0ET

Dear

Statutory Code for Pub Companies

At Punch we have been giving some consideration to the legal implications of the potential introduction of a Statutory Code for the management of the relationship between Pub companies and their tenants and lessees and thought it might be helpful to share our views with you before you launch your consultation.

For the reasons outlined below we at Punch believe that a statutory code is unnecessary and potentially illegal.

It is unnecessary in that there is no "mischief" or "detriment" requiring statutory intervention.

As currently envisaged, the code would also:

- (i) deprive affected pub companies of their property rights in a way that is unjustified and disproportionate – in breach of the European Convention on Human Rights; and
- (ii) lead to very serious adverse consequences for employment, consumers and the wider economy.

We are sure that you are as keen as us to ensure that the consultation is conducted in such a way that it produces reliable evidence on which the Government is able to make a reasonable decision.

That requires both:

- (a) that the right persons are consulted. Our view is that in the past, the views of the "silent majority" of satisfied tenants have been largely ignored; and
- (b) that the questions are constructed in a way that elicits an accurate and unbiased picture. We would welcome the opportunity to discuss the consultation methodology with you.

No Mischief/Detriment Requiring Statutory Intervention

The BIS press release of 8th January 2013 announcing the consultation suggests that a general imbalance in the relationship between pub companies and their tenants is contributing to hardship in the pub sector. There is no evidence of any such imbalance.

The last detailed study of the pub sector was carried out by the OFT in 2009/10. It concluded that tied tenants were able to compete effectively and that the commercial interests of pub companies and their tenants were aligned in that *"any strategy by a pub company which compromises the competitive position of its lessees would not be sustainable, as this would be expected to result in sales and margin losses for the lessee and, in turn, for the pub company"*.

We also note your department's response to the Business, Innovation and Skills Committee's most recent inquiry which acknowledged that there is "little evidence to indicate that tied pubs are more likely to close". It also recognised that "data produced by CGA Strategy clearly shows that between December 2008 and June 2011 more free-of-tie pubs closed than tied pubs, both in absolute figures and as a percentage of the total number of pubs in that category."

It has been open to your department to ask the OFT to review the market again or to prompt a reference to the Competition Commission for an in-depth market investigation, but you have not done this.

We understand that in putting forward the Proposals, there has been some impetus at your department to follow the route taken in the Groceries market in setting up a Statutory Code and Adjudicator. But as you know, the Groceries Code and Adjudicator were only introduced after an in-depth Competition Commission inquiry that found evidence of "mischief" in terms of the relationship between larger supermarkets and suppliers. There is no such evidence in the pub sector.

The press release of 8th January also refers to concerns raised in previous BIS Select Committee Reports. As you are aware, the industry introduced a code of practice (the Industry Framework Code ("IFC") now in its sixth revision) to address those concerns.

The IFC regime was strengthened in 2011 in particular by making it legally binding (by incorporating the Code into all agreements) and by setting up a Pub Independent Conciliation and Arbitration Service (PICAS) to be set up under the umbrella of PIRRS. The Government stated in November 2011:

"These reforms will directly address the concerns identified by the Committee. Making the Code legally binding and setting up an independent arbitration service will deliver the same outcomes as the Committee's two principal recommendations – to make the Industry Code statutory and to establish a code Adjudicator."

The revised Code has only been in place for a short period. However, over that period, there has been no evidence to suggest that the revised Code has not been effective. On the contrary, your department has recognised that the "independent arbitration service appears to be working well".

Your department further refers in the press release to concerns raised in response to the call for evidence in November 2012. But here the various industry associations and pressure groups merely re-stated their positions. There is no evidence of the type considered by the OFT in 2010.

Disproportionate interference with the property interests of pub companies

As there is no evidence of actual mischief, any interference in the contractual relationship between a pub company and its tenant will be disproportionate. We are especially concerned however about the proposals for Mandatory Free of Tie (FOT) and Equivalence.

Mandatory FOT, by potentially depriving pub companies of the entire margin on sales of beer would in effect undermine the whole pub company financial model.

As far as we know, no attempt has been made to define Equivalence. Doing so requires coming up with some form of comparator free-of-tie licensee – recognising that there is no well established model for a tenanted pub company in which the tenant is provided with beer at free-of-tie prices. At its most simplistic, such a comparator adopts the current method for calculating rent and ignores the various “SCORFA” and other benefits provided to tied tenants. Defined in that way, Equivalence would result in a substantial transfer of value from the pub company to the tenant equivalent to half of the “tied premium” (i.e. the difference between the free-of-tie beer price and the price paid by the tenant). That would have a serious negative impact on the financial position of pub companies.

Government should only contemplate such radical interference with private rights to property where there is clear evidence that doing so is necessary and proportionate to address a public interest concern. That is clearly not the case here.

European Convention on Human Rights

In those circumstances, by depriving pub companies of a future revenue stream and severely restricting their rights as owners, the Proposals could also constitute a breach of Punch's right to protection of its property enshrined in Article 1, Protocol 1 of the European Convention on Human Rights.

Serious Adverse Effects for the Wider Economy

We are also concerned that Equivalence and Mandatory FOT could lead to substantial pub closures with associated adverse effects on employment, competition, consumer choice, and property values in all pubs (not only those that are tenanted).

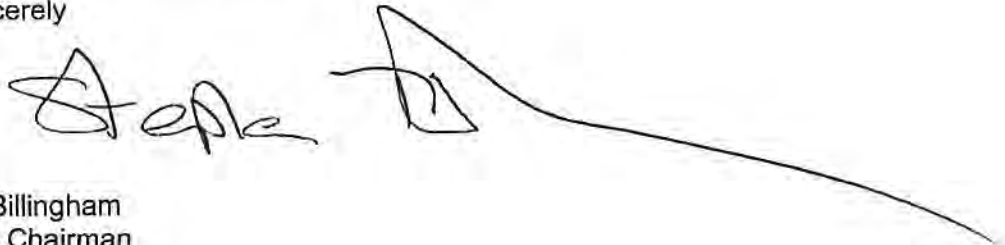
Next Steps

Punch would like to work constructively with your department to ensure that there is a good consultation focused around credible proposals based on firm legal foundations and resulting in reliable evidence on the basis of which Government can make a good policy decision.

We would like to meet ahead of your consultation at a convenient time for you to discuss further how we might be able to help this to be achieved.

We look forward to hearing from you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Stephen Billingham', followed by a long, sweeping horizontal line that extends to the right across the page.

Stephen Billingham
Executive Chairman

cc Caroline Normand, Director of Consumer and Competition Policy

D13/
656131

From: McLynchy Julie (CCP)
Sent: 31 May 2013 15:05
To:
Subject: FW: Statutory Code for Pub Companies

From:
Sent: 27 March 2013 20:19
To: 'E' 't'
Cc: Normand Caroline (CCP); McLynchy Julie (CCP); andy.slee@punchtaverns.com
Subject: RE: Statutory Code for Pub Companies

Dear Mr. Billingham,

Thank you for your letter. I appreciate the concerns that you have regarding the Government's actions and am grateful to you for raising them with us.

As you are aware, the Government will be consulting imminently on this matter and so it may not be possible to meet in advance of the publication date. I can assure you that the Government aims to consult as widely and openly as possible and that we have taken active steps to help ensure that as many people as possible, including individual tenants, are able to respond. We will be writing to you, and to other pub companies, to ask you to encourage your tenants to respond.

However, I do recognise your significant concerns and for that reason Julie McLynchy, the senior official responsible for this policy, would be very happy to meet with you, or other members of Punch, as soon as is feasible following the publication date to discuss your concerns in detail. I would emphasise that at this stage the Government has made no final decision and is only consulting, so any issues you raise can and will be fully taken into account in the Government's final decision.

If you would like to suggest some dates and times to meet between 9th-12th April, we will do our best to meet you then.

Regards,

Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET | Direct line:

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From: [mailto: punchtaverns.com]
Sent: 26 March 2013 09:09
To:

Cc: Normand Caroline (CCP)
Subject: Statutory Code for Pub Companies

Dear [redacted] and Ms Normand

Please see the attached file for a letter from Mr Billingham. A hard copy will follow in the post.

Yours sincerely

PA to [redacted] Chairman, Stephen Billingham
Email [redacted]
Tel: 01283 501948 / Mob: [redacted] / Fax: 01283 523578
Punch Taverns : Jubilee House : Second Avenue : Burton upon Trent : Staffs : DE14 2WF

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5 Emails between BIS and Punch Taverns

D13/791640

From: |
Sent: 10 May 2013 18:03
To: 'Andy Slee'
Cc: McLynchy Julie (CCP)
Subject: RE: Punch follow and opportunity

Tracking: **Recipient** **Read**
 'Andy Slee'
 McLynchy Julie (CCP) Read: 10/05/2013 18:39

Andy

Thank you for arranging yesterday's meeting with Compass Lexecon.

We note the issues you raised in your email of 2 May and in Stephen Billingham's letter of 26 March.

The Government's collective views are set out in the consultation. It is entirely proper that the Government should consult on preferred options but, as we set out in our meeting on 19 April, the purpose of the consultation is to gather evidence about those options so we can properly test the policy.

We note that the constituency correspondence that you have forwarded pre-dates the publication of the consultation which sets out the Government's collective views on the pub company proposals. We can assure you that Ministers' minds remain genuinely open and the policy will be influenced by the responses to the consultation.

Once the consultation has closed the Government will of course set out our analysis of the responses and policy outcomes in a Government Response.

If you think it would be helpful to meet before you submit your response to the consultation then we are happy to do so. We will also follow-up on the letter you handed to me yesterday to the Secretary of State.

Regards

Assistant Director, Consumers & Markets | Consumer & Competition Policy Directorate
 | Department for Business, Innovation & Skills | London, SW1H 0ET | T: [1 Victoria Street,

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From: Andy Slee [mailto:Andy.Slee@punchtaverns.com]
Sent: 02 May 2013 13:14
To:
Subject: Punch follow and opportunity

25/07/2013

You will forgive my delay in following up on our meeting on Friday April 19th, given the publication of the BIS Consultation last week and our need to understand the consequences for us

We are keen to work with you constructively in this matter but would like to make the following points;

1. I will not restate our legal position in full here as it was subject of much of the discussion we had on April 19th
 - We consider the policy BIS has announced to transfer "£102m" from pub companies to tenants to be contrary to the right (under the Human Rights Act) for pub companies to enjoy their property.
 - This is particularly so as BIS fails to cite any reliable evidence of the suggested imbalance of risk and reward between pub companies and tenants. Your acknowledgement on Monday of the wrong use by BIS of BII Helpline data in relation to "Complaints" against Pubcos illustrates this

Your own Impact Assessment Consultation also warns against relying on the headline statistic regarding the percentage of tied tenants earning less than £15,000 (sourced from a 2011 IPPR study funded by CAMRA and the Fair Pint Campaign). To quote: *this is "not a very reliable estimate because there is a small sample size and the answers were given in bands. Also some of the gap is likely to be accounted for by differences in the pubs, for example turnover at tied pubs is around 10% lower."*

 - We are also concerned that the Consultation may not be a fair one. By way of illustration, the questionnaire for licensees is leading and biased. I know BBPA have written to you on that point
2. Attached a scanned copies of the letter sent by the Deputy PM ahead of the consultation and in response to constituent letters on Beer Duty escalator. We are to say the least very surprised that Nick Clegg could be so forthright in public at a sensitive time. We have seen no evidence of consumers paying higher prices for beer. Indeed, as you are aware, the OFT concluded when it analysed the market in 2010 that tied tenants were able to compete effectively (such that consumers did not pay a higher price for beer). Could you advise on the evidence relied upon by the Deputy Prime Minister in making this statement.

As we mentioned when we saw you we have further examples of this wording by Lib Dem MPs (not Greg Mulholland) ahead of consultation
3. We spoke when we met about the Compass Lexicon economic impact survey. In the light of the document, Compass Lexicon are re modelling current BIS thinking and as such have nothing to show you at present. We welcome the fact that BIS will now also commission independent research and analysis of the impacts on both gross and net pub closures and employment levels (together with the assurance that this analysis will be based on as much robust evidence as is available). We do think it of merit to meet your economists to share methodology to make sure that outputs are as close as possible.. I can offer May 7,8,9,15am with myself and Neil Dryden Senior Vice President at Compass Lexicon
4. Following on from this, Compass Lexicon (and the 500+ Pubcos) will be looking to share this research with you in the next few weeks
5. You will acknowledge the disproportionate potential impact on Punch of this consultation. I am also aware of a number of meetings Government has held with our opponents in the lead up

to Consultation and the inclusion of many pieces of their evidence as part of the Consultation document. To make sure both sides of the argument are heard, we would like to offer one of two opportunities for us to feed back the Punch submission face – to – face. Either at our Head Office in Burton on Trent or at BIS in London which ever suits you best. Timing could be in early June to suit you

With regards

Andy Slee
External Affairs Director
Punch Taverns
07976 113113

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Punch Partnerships (PTL) Limited (3512363), Punch Partnerships (PML) Limited (3321199), Punch Partnerships (PGRP) Limited (3988664), Punch Taverns (Services) Limited (4221944).

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6 Invitation from BIS to stakeholder meeting

D13/866029

From:
Sent: 18 July 2013 18:54
To:
Subject: FW: Invitation: BIS Pubs Stakeholder Round Table, Wednesday 12th June, 15:30 to 16:30

From: |
Sent: 24 May 2013 13:11
To: 'stephen.billingham@punchtaverns.com'
Cc:
Subject: Invitation: BIS Pubs Stakeholder Round Table, Wednesday 12th June, 15:30 to 16:30

Dear Stephen,

Pub Companies and Tenants Consultation: Invitation to Stakeholder Round Table

As you will be aware, the Government is currently holding a consultation on establishing a statutory Code of Practice and an independent Adjudicator to govern the relationship between pub companies and their tenants.

We are keen to have an open consultation and to hear the widest possible range of views and to that end we are arranging a number of round tables with stakeholders from across the sector. I would like to invite you to a round table meeting with representatives from the large pub companies on Wednesday 12th June from 15:30 to 16:30. The meeting will be hosted by Jo Swinson, Minister for Employment Relations and Consumer Affairs and will be held in the BIS offices at 1 Victoria Street, London SW1H 0ET.

I do hope you will be able to attend. Please contact [redacted] in the Consumer and Markets team in BIS

[redacted] to confirm your attendance, or to nominate an alternate if necessary.

Yours sincerely

Policy Adviser, Consumers & Markets

| Policy Adviser, Consumer and Markets Team | Competition and Consumer Policy | Department for Business, Innovation and Skills | 1 Victoria Street | London SW1H 0ET | Tel: [redacted]

The same invitation e-mail was sent to:
BRIGID SIMMONDS (BRPA)
TED TUPPEN (ENTERPRISE)
IAIN JACKSON (MARSTON'S)
MARK MILLET (MITCHELL'S & BUTLER'S)
ANDY SLEE (PUNCH TAVERNS)
CHRIS WELHAM (SPIRIT) 1
CHRIS MOORE (STAR PUBS)
JOSHUA SAMA (WELLINGTON PUB)

7 Invitation from BIS to stakeholder meeting

D13/866024

From: ..
Sent: 18 July 2013 18:53
To:
Subject: TRIM: FW: Invitation: BIS Pubs Stakeholder Round Table, Thursday 13th June, 10.45 - 11.45

TRIM Dataset: M1
TRIM Record Number: D13/866024
TRIM Record URI: 14540083

From:
Sent: 24 May 2013 18:19
To: 'info@fairpint.org.uk'
Cc:
Subject: Invitation: BIS Pubs Stakeholder Round Table, Thursday 13th June, 10.45 - 11.45

FAO Steve Corbett

Dear Steve,

Pub Companies and Tenants Consultation: Invitation to Stakeholder Round Table

As you will be aware, the Government is currently holding a consultation on establishing a statutory Code of Practice and an independent Adjudicator to govern the relationship between pub companies and their tenants.

We are keen to have an open consultation and to hear the widest possible range of views and to that end we are arranging a number of round tables with stakeholders from across the sector. I would like to invite you to a round table meeting with representatives from tenants and licensee groups on Thursday 13 June from 10:45 to 11:45am. The meeting will be hosted by Jo Swinson, Minister for Employment Relations and Consumer Affairs and will be held in the BIS offices at 1 Victoria Street, London SW1H 0ET.

I do hope you will be able to attend. Please contact [redacted] the Consumer and Markets team in BIS

[redacted], to confirm your attendance, or to nominate an alternate if necessary.

Yours sincerely

Policy Adviser, Consumer and Markets

Policy Adviser, Consumer and Markets Team | Competition and Consumer Policy | Department for Business, Innovation and Skills | 1 Victoria Street | London SW1H 0ET | Tel: [redacted]

THE SAME INVITATION E-MAIL WAS SENT TO:
KATE NICHOLLS (ALMR) CLIVE DAVENPORT (FSB)
STEPHEN BROOKS (BRAMLWELL) JOHN MADDEN (GMV)
TIM HULME (BII) BILL SHARP (LMV)
MIKE BANNER (CAMRA) SIMON CLARKE (IPC)
STEVE CORBETT (FAIR PINT) INEZ WARD (JUSTICE FOR LICENSEES)
CHRIS WRIGHT (PAS)

8 Letter from Punch Taverns about BIS consultation

D13/706570



AS/BV

13th June 2013

Mr

Department for Business, Innovation & Skills
1 Victoria Street
London SE1H 0ET

Dear

Pub Companies and Tenants: BIS Consultation of April 2013

Punch Taverns wishes to register a complaint regarding the conduct and the process of the above mentioned consultation (the "Consultation") as a whole and in particular the Consultation document itself.

At Punch we have sought to work constructively with BIS over recent years to address concerns raised about the treatment of Tenants across the sector. Details of the many reforms we have introduced are included in our response to the Consultation, so have not been referenced here.

Our complaints focus on four key areas:

- Prejudgement of the key issues by Government.
- Proven factual inaccuracies and misleading statements in the Consultation document.
- Further unsubstantiated evidence in the Consultation document.
- Consultation questionnaire that breaches Market Research Code of Conduct.

1. Apparent prejudgement of the case by Government

The Government appears already to have concluded both:

- (a) that self regulation is not working and that a statutory code and adjudicator is necessary; and
- (b) that there is an imbalance in risk/reward requiring a transfer of value (£102m) from pubco to tenant.

Punch Taverns is a trading name of Punch Partnerships (PTL) Limited Reg No. 3512363, Punch Partnerships (PML) Limited Reg No. 3321199, Punch Partnerships (PGRP) Limited Reg No. 3988664 and Punch Taverns (Services) Limited Reg No. 4221944. Each of these companies noted above is registered in England and Wales and has its Registered Office as: Jubilee House, Second Avenue, Burton upon Trent, Staffordshire DE14 2WF.

Tel: 01283 501600 Fax: 01283 501803 Web: www.punchtaverns.com
Punch Taverns | Jubilee House | Second Avenue | Burton upon Trent | Staffordshire | DE14 2WF

The Consultation is only concerned with how best to implement these objectives – and not (as it should be) to establish whether or not there is reliable evidence to support the need for such intervention.

It is clear from a review of the Consultation documents that Government was biased in reaching these conclusions since it did so on the basis of no reliable evidence. We detail below some of the factual inaccuracies in the Consultation document but would ask you to refer to the Punch response to the Consultation for a detailed analysis of the evidence Government purports to rely on.

Such bias is clearly apparent in statements made by the Deputy Prime Minister and the Secretary of State. In correspondence (attached) with a Punch employee dated 3rd April 2013 on the Beer Duty Escalator (BDE), the Deputy Prime Minister states :

"I am also supporting Vince Cable's action to stop large pub companies from charging extortionate prices for beer from their 'tied pub' clients. The practice is unfair and drives up the price of beer for consumers, so Vince is right to step in and stop unscrupulous pubcos who often overcharge pubs by 40% or 45% for their beer."

In a similar vein, on his website, Secretary of State, Dr Vince Cable states:

"I support the Fair Pint Campaign which is pushing for legislation for leased pubs to be released from their tie. And the system of tied pubs goes completely against the idea of competitive markets."

Both of these statements are biased and unfounded and inconsistent with the OFT's conclusions following its detailed review of the market in response to the CAMRA Super Complaint in 2010. The OFT specifically concluded that consumers benefit from considerable competition between pubs and were not paying an uncompetitive price for their beer.

There is further evidence of Government prejudice in a video on the Consultation website which features Minister for Employment Relations and Consumer Affairs, Jo Swinson and Mike Benner the Chief Executive of the Campaign for Real Ale. Ms Swinson is the Minister leading the consultation process. Mr Benner is a leader of the Anti Pubco Coalition. There is no equivalent video on the web site featuring any representative of the pub companies and in stark contrast to Ms Swinson's meeting with Mr Benner, a request made by Punch for Ms Swinson and officials to visit the Punch Head Office as part of consultation has been turned down. Images of this interview are included below.



2. Factual inaccuracies and misleading statements in the Consultation document

The Consultation document contains a number of inaccuracies and misleading statements.

BII Helpline

Government places significant reliance in the Consultation on the receipt under the BII helpline of 400 “complaints” over the past 3 years, the “vast majority” of which were about large pub owning companies (see page 18 and Figure 1).

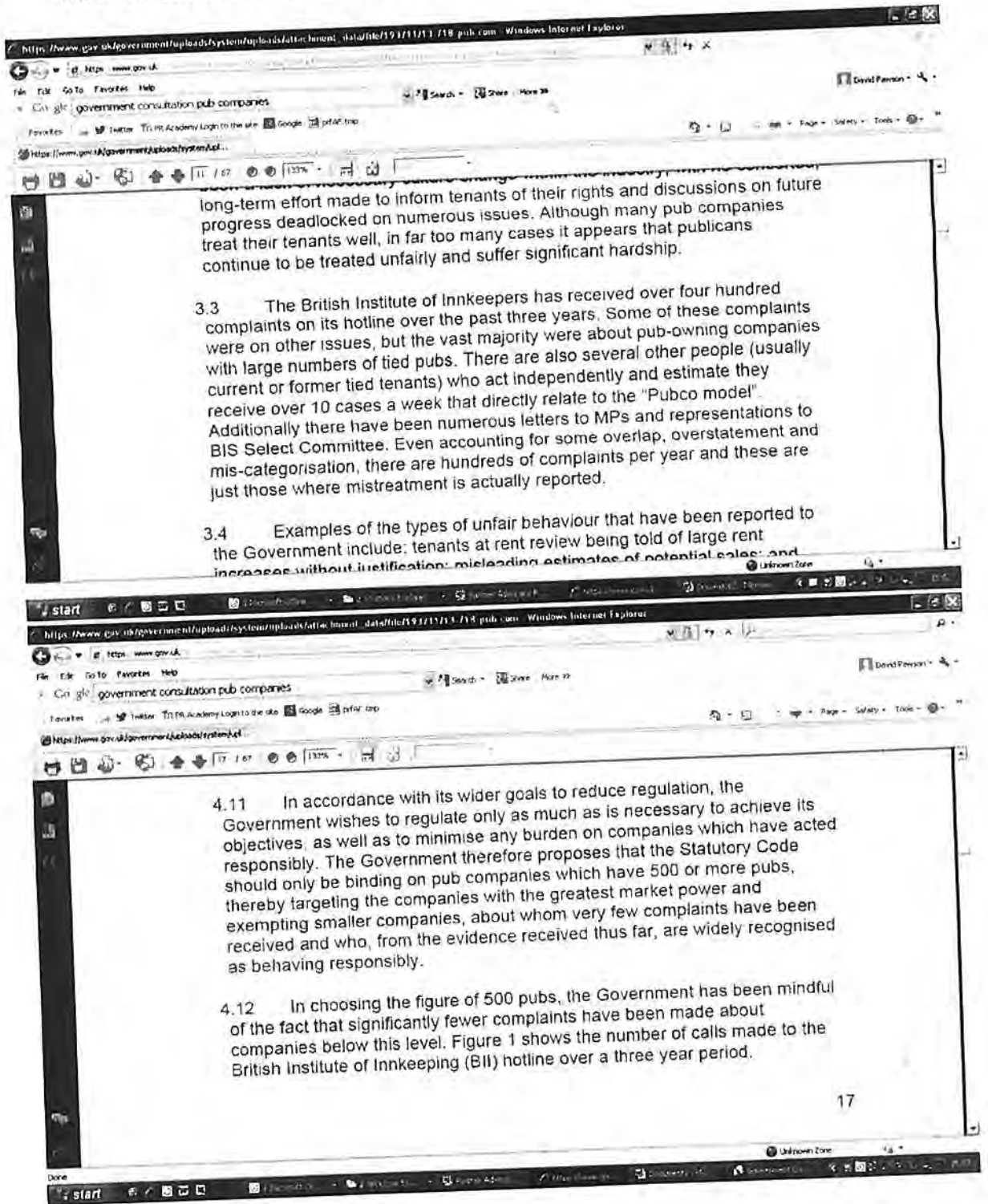
BII and BIS have since (on April 29th), issued a press statement which clarifies that these are “calls” received by the BII helpline (so will include technical queries from tenants) “and are not therefore indicative of ‘complaints’”. A BIS spokesman is quoted in the press statement as saying:

“We acknowledge that the figure in the pubs consultation should have more accurately referred to ‘calls’ rather than ‘complaints’. We will correct this in the consultation and in future documents. Nevertheless, the data still shows that tenants from larger companies were significantly more likely to contact a helpline than tenants of smaller companies or those who ran free houses.”

The Consultation document was not corrected however until a week later and even after correction of the figures, references to “Complaints” remained in some parts of the Consultation document, meaning that the Consultation was open for responses before the corrections were made.

In our view, this error was so fundamental as to undermine the whole basis for the Consultation.

Screenshots of this are included below:



Evidence of Hardship

In the Consultation document, Government alleges that tied tenants are more likely to face serious hardship.

This appears to rely solely on a 2011 IPPR survey of 500 licensees which found that 46% of tied publicans earn less than £15,000 per year, compared to 23% for tenants who are free-of-tie.

The £15,000 figure is also referred to by Jo Swinson in the video above.

The Consultation document fails however to recognise:

- i) That the survey was funded by CAMRA and Fair Pint (both opposed to the tie).
- ii) That comparisons between pubs are notoriously difficult to make; or
- iii) Specifically, that the comparison was flawed in that of the pubs surveyed by IPPR, the proportion with a turnover > £300k is higher for non-tied pubs than tied pubs (so that it is not surprising that it results on higher earnings for non-tied pubs).
- iv) That the survey was based on a small sample size and used wide bands for responses.

Surprisingly, this flaw is recognised in the Government's own Impact Assessment:

"A survey commissioned by the Institute for Public Policy Research asked tied and free of tie licensees what their personal income was. The results suggest that tied licensees are about £6k worse off than free of tied licensees. This is also not a very reliable estimate because there is a small sample size and the answers were given in bands. Also some of the gap is likely to be accounted for by differences in the pubs, for example turnover at tied pubs is around 10% lower."

And yet Government elects to ignore this completely in the Consultation document itself.

Drivers of pub closures

In his foreword, the Secretary of State suggests: *"At present, 18 pubs (net) are closing every week. Whilst the financial crisis has brought into stark relief the slow process of sectoral decline, it is undoubtedly the case that the activities of the major pub companies, with their highly leveraged business model, have intensified the crisis."* (emphasis added)

In fact, far from being "undoubtedly the case" there is no support for this at all. On the contrary, the evidence if anything, suggests the reverse.

This is recognised in the Government's Impact Assessment:

"The decline [in pub numbers] 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%."

But again, the Government ignores this evidence in the Consultation document.

3. Further unsubstantiated evidence in the Consultation document

The Consultation document also contains a number of unsubstantiated statements and emotive language.

Punch has serious doubts that the Consultation can form any basis for proportionate regulation.

Examples of unsubstantiated claims included in the Consultation are considered below.

Evidence of 10 cases per week

The Consultation document at 3.3 states:

"There are also several other people (usually current or former tied tenants) who act independently and estimate they receive over 10 cases a week that directly relate to the 'Pubco model'."

There is no clear evidence provided to support this claim, which is a biased statement based on unsubstantiated estimates. It is also not clear what "relat[ing] to the 'Pubco model'" means.

Prospective Tenants are misled

The Consultation document at 3.4 refers to types of unfair behaviour that have been reported to the Government about Pub Companies and refers to "misleading estimates of potential sales". Again, no specific evidence is provided of such behaviour.

Punch use Chartered Surveyors to provide a sales estimate of the Reasonably Efficient Operator (REO) as set out in the RICS guidance. At no point is a tenant misled. All prospective tenants are strongly encouraged to have business plans and contracts counter signed by lawyers and accountants of their choosing (with a panel available from Punch if required).

Drinks prices are "Significantly increased"

There are also suggestions within the Consultation document of 'significant increases' in tied beer prices by Pubcos, (see e.g. Q8(i), 5.26, 5.30). These suggestions are without any foundation. Indeed, the OFT response to the CAMRA Super Complaint found no evidence of significant unwarranted increases in drinks prices by pub companies, stating as follows:

"We consider that in the context of this sector, where an individual pub company generally faces significant competition from other pub operators in the downstream retail market and where the characteristics of the market do not offer conditions in which coordination between the large pub companies is likely to be sustainable, pub companies will not be in a position to sustainably inflate prices charged to lessees above a competitive level."

Punch changes the drinks prices annually following increases in supplier cost increases (to Punch), and Governmental tax changes. In the last 4 years, prices to Punch tenants have increased less than supplier cost increases to Punch.

Low levels of tenant literacy and numeracy

The consultation document suggests (at 3.5) that there are "concerns regarding low levels of literacy and numeracy amongst Tenants" and seems to imply that Pubcos exploit this situation.

This suggestion is wholly wrong and misleading. It relies on a Publican's Morning Advertiser article from 22nd June 2009. But this was written about managed houses and the plans put in place for apprenticeships. It does not refer to the Leased or Tenanted sector at all, which is the subject of this Consultation.

Prior to taking any Punch agreement, all new tenants are required to produce a business plan which is analysed from a business case, including (amongst many other things) what level of profit the tenant is forecasting, marketing plans, on-line platforms for the pub, etc, etc. In these instances, a relatively high level of literacy and numeracy is required.

Tenants are also required to undertake training to ensure they are ready to begin trading. In 2012, 605 delegates representing 362 pubs attended Punch's Foundation Week training course.

4. Consultation questionnaire that breaches Market Research Code of Conduct

The questionnaire process is in clear breach of Paragraph B14 of the Market Research Society Code of Conduct, which is designed to reassure the general public and other interested parties that research is carried out in a professional and ethical manner.

Paragraph B14 provides that Members must take reasonable steps to ensure:

- That the data collection process is fit for purpose and clients have been advised accordingly;
- That respondents are not led towards a particular point of view;
- That responses are capable of being interpreted in an unambiguous way;
- That respondents are able to provide information in a way that reflects the view they want to express, including do not know/prefer not to say where appropriate.

Two examples of clear breaches of the Code of Conduct in the Consultation questionnaire are as follows:

Question 2 of the on-line questionnaire simply asserts:

"Self-regulation has been tried since 2004 but has not worked - too many tenants are still being treated badly and facing hardship."

Those consulted are simply asked whether they support the various proposed initiatives. If you are a tenant being consulted on a proposal whose result, prima facie, is a transfer of value in your favour, the likelihood is that you will simply agree.

Another question states simply:

"The Government believes the best way of achieving this would be to introduce a Statutory Code, to set down the rules which pub companies would have to obey, and an independent Adjudicator to enforce and referee the code."

"Do you agree that a statutory Code and Independent Adjudicator would be an appropriate way of tackling this problem Yes / No? "

These questions clearly lead respondents towards a particular point of view and do not enable respondents easily to provide the view they want to express (in contravention of the second and fourth principles of B14 above).

3 April 2013

Enclosure :
13th June 2013

Dear

Thank you for your recent email regarding beer duty.

I am delighted to tell you that in the Budget we announced that beer duty would be cut by 2% from 25th March 2013. We've also cancelled the proposed increase that the last Labour government's duty escalator would have imposed this April, so have helped beer drinkers by taking 4 pence off the price of a pint this year.

We're not stopping there. We have scrapped the duty escalator entirely, which will stop beer duty rising above inflation in future. This should make a real difference to pubs and communities. It builds on the work that I have already done with the Coalition Government to support pubs and responsible drinkers. For example, we have cut corporation taxes to let pubs keep more of their profits, promoted the community right to buy, which makes it easier for local communities to buy and manage their pubs, and we've cut red tape to make it much easier for pubs to host live music events.

I am also supporting Vince Cable's action to stop large pub companies from charging extortionate prices for beer from their 'tied pub' clients. This practice is unfair and drives up the price of beer for consumers, so Vince is right to step in and stop unscrupulous pubcos who often overcharge pubs by 40% or 45% for their beer.

Thank you for contacting me on this important issue.

Yours sincerely

Nick Clegg MP

Nick Clegg MP

Sheffield Hallam
Web: <http://www.nickclegg.org.uk>
Office: 85 Nethergreen Road, Sheffield, S11 7EH
Tel: 0114 230 9002 Fax: 0114 230 9614
Email: nickclegg@sheffieldhallam.org.uk

The office of Nick Clegg MP has procedures in place to protect your personal data. Your correspondence will be handled by authorised staff in the office and may be passed on to other agencies such as Government Departments, HM Revenue and Customs, or the Local Council if this is necessary to help with your case. We may wish to write to you from time to time to keep you informed on issues of relevance to you. Please let us know if you do not wish to be contacted for this purpose.

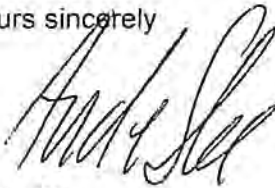
In addition, there are issues with other aspects of the questionnaire. Namely;

- The preamble is very negative, and refers openly to tenant exploitation.
- It relies again on the 2011 IPPR survey (as to which see above) for its background assumptions.
- There is no attempt to gauge whether or not self-regulation is working.

On the basis of the above, the Pub and Tenants Consultation is inadmissible as a basis for any legislation.

We look forward to receiving your comments.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Andy Slee', written in a cursive style.

Andy Slee

~~External Affairs and Central Operations Director~~

Enc

9 Letter from Enterprise Inns about BIS consultation

D13 | 706593

Our Ref: GET/EG

13 June 2013

Mr

Department of Business, Innovation and Skills
1 Victoria Street
London
SW1H 0ET

By post and by email:

Dear

Pub Companies and Tenants: A Government Consultation

We are writing to complain about the manner in which the Government's consultation on Pub Companies and Tenants (the "**Consultation**"), published in April 2013, has been conducted.

Enterprise Inns is astounded by Government's approach to the conduct of this Consultation and wishes to complain in the strongest possible terms. While we shall, of course, address the issues in more detail in our Response, in this formal letter of complaint we make the following principal points.

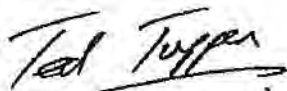
1. The Office of Fair Trading has found that the pub industry works well for consumers. A series of Select Committees has found that most dealings between pubcos and tenants are lawful and fair. The industry has excellent and flexible codes of practice and cost effective industry sponsored review bodies. Self regulation is working. Only eight months ago, Jo Swinson declared that there was no need to intervene.
2. Against this background, it is clear from Dr Cable's Foreword and throughout the documents that, in contradiction to the position it took only eight months ago, Government has already decided to introduce a statutory code and adjudicator. This is not a consultation. It clearly violates the Consultation Principle that "engagement should begin early in policy development when the policy is still under consideration and views can genuinely be taken into account".
3. Government has presented no evidence that there is a case on which to consult. The whole process is therefore fundamentally flawed. Enterprise Inns has had to raise more than 250 Freedom of Information Requests simply to understand whether there does, in fact, exist any basis for any of the statements Government makes. The Consultation Principles recommend that "every effort should be made to make available the Government's evidence base at an early stage to enable contestability and challenge". If Government has evidence, it has not been presented in this case.
4. The Impact Assessment published with the Consultation contains more assertions than assessment, understandable given the paucity of evidence in Government's hands. We now learn that London Economics has only very recently been commissioned to undertake research to provide BIS with estimates to feed into BIS' impact assessment of the proposed changes, to be published later in the summer (presumably with BIS' final decision).
5. While the Consultation claims (several times) to put an "open question", neither the full Consultation nor the online questionnaire poses other than closed and leading questions introduced by directional and often emotive and misleading text. There is certainly not the "sufficient information...made available to stakeholders to enable them to make informed comments" which the Consultation Principles require.

2)

13 June 2013

6. Government proposes statutory intervention in the business model (imposed by an earlier government) of a very few companies whose estates are over an arbitrary threshold. This is extremely serious for those companies affected. Yet such meetings as Government allows for those affected to present their views are short, crowded and held in the last days of the Consultation period.
7. Government's refusal to meet with individual companies or to give the pubcos sufficient time to meet with BIS is in stark contrast to the opportunities offered to populist campaigners led by CAMRA, which was able to capitalise on its close links with a particular Member (Mr Mulholland) to use a House of Commons Committee Room for a well publicised "rally", a further indication of Government's prejudging of the issue.
8. In similar vein, we were shocked at the wholly inappropriate use of Parliamentary time demonstrated by the same Mr Mulholland in the midst of a debate on better defence acquisition on 10 June, in using the "point of order" technique to draw attention to a letter to MPs from Enterprise Inns. It is not possible for Government or individual MPs to give objective consideration to policy issues when colleagues of the Secretary of State are allowed to lobby the House and to denigrate representatives of the affected industry in this way.
9. Anyone looking at the Consultation online today will read (in paragraph 3.3 of the Consultation and paragraph 26 of the Impact Assessment) that the British Institute of Innkeepers (BII) has received "over four hundred complaints" on its hotline over the past three years, and will be told that the vast majority of these "complaints" were about pub-owning companies with large numbers of tied pubs. Yet on 29 April the BII clarified the "misinterpretation" of its data, explaining that these were calls about a variety of issues, not complaints. Government had the opportunity to correct the documentation very early in the process, but instead continues to mislead potential respondents.
10. We were surprised that in the televised BIS committee "one-off evidence hearing" on the Consultation on 11 June Mr Simon Clarke said that he was aware that a Freedom of Information Act Request (which he characterised as a potential precursor to a legal challenge) had been made to BIS. We can find no such request or response on the BIS website. It is, of course, possible that the person making the Request had mentioned it to Mr Clarke. It would be irresponsible of Government to release any such information to individuals before it was generally published.
11. Government has to consider what will be a very wide range of submissions and expert evidence and to review its own lack of evidence and potentially engage expert advice. In the circumstances it cannot be possible for Government to publish a reasoned final decision in a three month summer period. While such a deadline may be the standard period, for Government to rush out a final decision will only serve further to demonstrate that the issues were already decided.
12. Government's only ethical course is to withdraw this flawed and misguided suite of documents and to reconsider its position.

Yours sincerely
Enterprise Inns plc



G E Tuppen CBE
Chief Executive

10 Emails between BIS and Pub Advisory Service

D13/918315

From: Pubs Advisory Service [pubsadvisoryservice@btconnect.com]
Sent: 12 June 2013 15:45
To:
Subject: RE: CONFIRMATION: BIS Pubs Stakeholder Round Table, Thursday 13th June, 10.45 - 11.45
Attachments: Pubs Advisory Service BIS.docx

Please note regarding the round table tomorrow clearly there will be lots of participants and we may not get time to say all that we would like.

Please find below a copy of our notes for the meeting / minister, could you see the she gets a copy (see attached).

Regards

Chris
Pubs advisory service

From:
Sent: 11 June 2013 14:20
To: Undisclosed recipients:
Subject: CONFIRMATION: BIS Pubs Stakeholder Round Table, Thursday 13th June, 10.45 - 11.45

Dear All

Many thanks for confirming your attendance on the above ministerial roundtable meeting. Please report at reception at our BIS office, 1 Victoria Street London SW1H 0ET and asked for myself.

Please find below a list of attendees.

Any questions please call.

Many thanks

| Consumer & Markets | Consumer & Competition Policy | Department for
Business, Innovation & Skills |
www.bis.gov.uk

Kate Nicholls, Strategic Affairs Director, Association of Licensed Multiple Retailers
Stephen Brooks, Bramwell Pub Company
Tim Hulme, CEO British Institute of Innkeeping (BII)
Mike Banner, CEO CAMRA
Steve Corbett, Fair Pint

03/07/2013

CONFIRMATION: BIS Pubs Stakeholder Round Table, Thursday 13th June, 10.45 - ...

Clive Davenport, Federation for Small Businesses
Martin Caffrey, Federation of Licensed Victuallers Association
Dave Mountford, GMB Union
John Madden, CEO Guild of Master Victuallers (GMV)
Bill Sharp, GMV
Simon Clarke, Independent Pub Confederation (IPC)
Inez Ward, Justice for Licensees
Chris Wright, Pubs Advisory Service (PAS)

Jo Swinson, Minister for Employment Relations and Consumer Affairs (host)

BIS
S/Jo Swinson

| Consumer & Markets | Consumer & Competition Policy | Department for Business,
Innovation & Skills | elaine.barley@bis.gsi.gov.uk | T:+44 (0) 20 7215 0028 | www.bis.gov.uk

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Pubs Advisory Service Ltd

(BIS office roundtable 13th June 2013)

"To launch a trial is often more expensive than the amount invested"

The imbalance of power and various abuses has been reported and commented on widely by the various select committees stretching back over 9 years. Various trade bodies have sought to "head off" reforms by incorporation of a self regulatory process (SRP) – this being low cost, low regulation and using as little red tape as possible.

The current trade offering of SRP would highlight major areas of concern for anyone entering the trade, namely that over the last three years:

- being presented with a Code of Practice (COP) that has not met the minimum requirements of the *framework code* behind it
- not being able to see the framework code behind it as it isn't published on most pub company or accrediting body websites (failure of incorporation)
- having a COP that can be subject to unlimited addendums or adjustment after sign up
- in the vast majority of cases not being able to access any of those addendums on sign up (further failure of incorporation)
- not being able to see the original accredited addendum template issued by the BIIBAS (failure of incorporation)
- having a self regulatory body that has failed to publish the current framework into its own rules (failure of incorporation)
- knowing that any code complaint you raise can be derailed or halted at anytime by your landlord (issuing of a county court claim or merest threat of) SEE APNDX 1
- knowing that self regulation process can't enforce fairness despite it being offered voluntarily by all pub companies & family brewers IFC V6 clause 35 (PICA has no power to change contract terms)

Every single company code published on BIIBAS as of 1 June 2013 is in breach of the IFC Version 6 clause 35; the minimum requirement as indicated in clause 35 does not appear in any company code. BIIBAS head Mr Bernard Brindly has indicated as much by stating "that all company COP's are currently going through re-accreditation for version 6, and the accreditation panel has specifically been instructed to ensure this part of the IFC will be in every new code." Clearly no company could find agreement with this requirement since the start of accreditation in March 2010 and the deliberate exclusion & failure of incorporation raises issues (understandably so) in the minds of reasonable people as to how the codes were accredited in the first place. Seemingly all the companies acted in unison to exclude it and with that the distribution of IFC, this important conditional offer contained in the IFC as a minimum requirement is missing from every Pub Company and BIIBAS website. Given the statement we raise questions as to why there is a need to reaccredit as previously an addendum was issued for IFC V5 The reaccreditations are more red tape and costs imposed on pub companies & brewers under SRP and a clear sign of how trade bodies lose control in having a wide ranging inconsistent approach to COP- SRP management.

Most of the smaller company codes are infact a carbon copy of each other; this would indicate the market takes its lead advice from a single source. Company codes offer little choice the industry has shown it cannot be relied upon to include the crucial clauses and incorporation of vital documentation on their own. No business should be exposed to a SRP with so many shortcomings and structural failures. In short as demonstrated above the low cost - low regulation approach overseen by trade bodies will not & cannot work in this trade.

Pub companies have made much of the ongoing support they offer tenants, this level of support can lead to public liabilities please SEE APNDX 2

The incorporation of a pubs adjudicator will however bring fairness, confidence and redress the failures of the previous trade regime. It is our view that a truly independent investigative adjudicator (based on Groceries Adjudicator) can restore confidence for licensees and stamp out bad practice however this adjudicator needs a strong statutory code with clear references to fairness in order to operate properly.

In summary: It cannot be left to new entrants to require a higher level of knowledge that is not being covered by existing training mainly because offers are being withheld or hidden from view by those very companies you wish to enter into a long term relationship with. Crucially this level of knowledge required to get a fair deal and enter the trade is so high that the majority of new entrants will never meet it and will in many cases walk into their pub of choice blindly with key information being hidden from view.

Pubs Advisory Service Ltd


APNDX 1

The various landlords recognised the need to modernise working practices owing to findings of the BISCOP – BEC - TISC and have attempted to construct a self regulatory process (SRP).

SRP is totally compromised and failed a fundamental test of fairness and normal business standards as this example demonstrates:

In the case of a Punch Taverns tenant (Mr David Mountford) who raised a complaint under the SRP the "overseeing body" was informed by Punch Taverns that the complaint would be unable to progress because the tenant (Mr Mountford) had entered into "legal action" against Punch, this action under the SRP terms is fatal to a complaint progressing. Mr Mountford was surprised (and outraged) as he not engaged any lawyers or filed any claim with any court whatsoever – despite several appeals to the "body" disputing the legal action claim and even the issuing of a statutory declaration by Mr Mountford to the "body" they simply wouldn't investigate further or hear his complaint. With outstanding brevity Punch Taverns took Mr Mountford to court some weeks later.

This example shows how simple it was for any pubco to subvert the SRP firstly by misleading the "SRP body" who clearly make no enquires when this is disputed and (or) finally by application of a county court claim themselves. The SRP can still be easily derailed today by any pubco making a



small claim; there is no mechanism by which the overseeing body can lock the participants into the process.

11 Emails about devolved administrations

013 | 85106 |

From: [redacted]
Sent: 17 June 2013 16:08
To:
Subject: RE: statutory code - devolved?

Dear [redacted]

Thanks for the clarification.

My colleagues in Scotland would like to know why this is devolved....?

In terms of what we may say to the Scottish Government on this, the main issue is the threshold. There appears to be a clear need to intervene and impose a statutory code on the largest pub companies. But it's not clear whether the England and Wales code could be "extended" to Scotland, ie so it captures pub companies that own more than 500 pubs in England, Wales and Scotland. Or whether Scotland needs to get its own code, and thus set its own threshold, in which case Scotland would need to work out whether there is a need to intervene at all.

Ditto for NI.

Could you clarify whether it is possible to "extend" the proposed code to Scotland and NI.

Do you know whether the pub companies that own more than 500 pubs in England and Wales also own tied pubs in Scotland or NI?

Many thanks,

Tel:

From: [redacted]
Sent: 17 June 2013 10:25
To: [redacted]
Subject: RE: statutory code - devolved?

This is a devolved matter so the consultation proposals apply to England and Wales only. However, discussions are taking place with the devolved administrations to determine whether or not similar proposals could be extended to the whole of the UK.

Regards

[redacted], Consumers & Markets | Consumer & Competition Policy Directorate
| Department for Business, Innovation & Skills | 1 Victoria Street,
London, SW1H 0ET | T: www.gov.uk/bis |

18/07/2013

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From: .. [mailto:..@fsb.org.uk]
Sent: 17 June 2013 10:08
To:
Subject: statutory code - devolved?

Dear

My colleagues in Scotland have been asked for guidance on the statutory code by the Scottish Government.

Is this a devolved issue?

Also, this morning we have been contacted by Margaret Ritchie MP, asking for advice on how the proposed code will apply to Northern Ireland.

Many thanks,

Tel:

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12 Emails, June 2013

D13/ 851059

From:
Sent: 19 June 2013 15:23
To:
Cc:
Subject: RE: meeting today

I look forward to hearing from you again and rest assured we will be talking to RICS about this.

Thank you,

From: I [mailto:el@fsb.org.uk]
Sent: 19 June 2013 13:46
To:
Cc:
Subject: RE: meeting today

Dear .

I understand that you cannot guarantee that the research I am commissioning will be taken into account.

The reason why the field work will take so long is because we want to survey between 500 and 600 tied publicans. I can get the research company to run a report on the main breaks (such as how many tied tenants say they would put a larger on guest beer) once we got in the region of 200 interviews completed. So that would be in the 1st or 2nd week of July. That will probably assist you in figuring out whether the data is of any use for the modelling you are doing for the impact assessment.

The RICS guidelines are not the particular forte of the FSB. On the question of how a guest beer option or free of tie option would impact on REO, FMT and FMOP it would probably be good to engage with the Royal Institution of Chartered Surveyors.

My understanding is that the tied tenant and the pub company will get an assessment done by an independent chartered surveyor. If there is a guest beer option, or a mandatory free of tie option, in the statutory code, clarification probably need to be provided in the RICS guideline on how surveyors should consider tied tenants who exercise a mandatory guest beer or free of tie option. If surveyors work on the assumption that a REO would have put their best selling tied lager on guest beer tap, or gone free of tie, it would impact on the FMT for all tied tenants, and possibly lead to an increase in dry rent for all tied tenants. If the guest beer option or free of tie option is only considered at the FMOP stage, only tied tenants who have exercised a guest beer option or free of tie option would possibly be subject to increased dry rent (bearing in mind that they should also be no worse off than free of tie tenants, according to the possible statutory code).

Best,

From:
Sent: 19 June 2013 11:15
To:
Cc:
Subject: RE: meeting today

18/07/2013

Thanks for this. My overall comment is just an obvious observation that the closer the tenants' responses reflect their likely real world decisions the better, and part of this is their understanding the full implications of their choices.

I laid out my current thinking on the potential implications of the guest beer in my last email and so won't repeat it. Given that I am keen to test my understanding, I am grateful for your comments on RICS guidelines. My understanding was based on the section of the RICS guidance that you highlighted. I read this as saying FMOP should reflect the terms of supply – so improved terms of supply, such as with a guest beer, should be reflected in a higher FMOP and so a higher divisible balance and so a higher dry rent. I would, of course, be very interested in counter views.

On the timing of your work, as I said on the phone we can't guarantee that we will take into account information we receive after the consultation closes but we will use our best endeavours to use all available evidence.

Regards,

From: ' ' [mailto:_____el@fsb.org.uk]
Sent: 18 June 2013 18:19
To:
Cc:
Subject: RE: meeting today

Dear

That's really helpful. We will try to structure the questionnaire so that we get realistic answers from tenants. The aim is to establish how a guest beer right or a free of tie option would impact on the beer industry. We will be able to send the raw data to you by end of July.

Guest beer option questions

On the guest beer option, we can test the hypothesis that tied tenants will use a guest beer option to maximise the gross profit on their best selling beer.

The main reason why a "reasonable efficient operator" would currently choose to put their best selling tied lager on the guest beer tap (so as to increase gross profit) is because their pub company in many cases over-charges for beer. But pub companies don't overcharge all tied publicans to the same extent. Apparently tied tenants tied to the same pub company are charged vastly different prices for the same lager if discounts are taken into account (the discounts tied tenants agree with their pub company apparently vary widely).

We were planning to ask tied tenants what beer they currently have on tap and how much they buy per year. So that should give us good baseline data on what tied tenants are currently buying (and selling, minus spillage etc).

We were then planning to ask tied tenants for each of the beer brands they have on tap, how the price their pub company charges compares to the price they think they would pay on the open market.

Following this we will ask them what they would do if they had a guest beer option.

We can make "best selling lager guest beer" tenants aware that they would have to pay part of their additional profit to the pub company as dry rent, and see whether this changes their choice.

Chances are that those tenants who believe they are being significantly over-charged for lager are more likely to put one of their existing lagers on the guest beer tap. But we will see what the data says.

Let me know if you have any thoughts on the question structure.

Reasonably efficient operator and the RICS guidelines

The observation that pub companies may raise all tied tenant's dry rents to claw back the revenues they are losing because some tied tenants buy their best selling lager as a guest beer, is very interesting. Though I don't think that we will get very useful answers if we explain this to tied tenants.

Reasonably efficient operator (REO), and how it interacts with dry rents, is defined by RICS. I don't know much about RICS, but the issue you have identified relates to profit rather than trade or turnover. So the potential benefits from putting the best selling larger on the guest beer tab would reflect in the fair maintainable operating profit (FMOP), rather than the fair maintainable level of trade (FMT). According to the RICS guidelines the FMT is established first, and then the FMOP. The RICS guidelines say:

"7.16 When assessing the FMOP of a tied property, the valuer will need to reflect the terms of supply and contractual benefits available to the tenant, along with all other matters referred to earlier in section 6."

So a dry rent increase for all tied tenants as a result of the guest beer right could maybe be mitigated if the RICS guidelines make it clear that the guest beer option falls under terms of supply available to the tied tenants. The FMOP will in any case already reflect the different discounts the tied tenants managed to secure in the tenancy negotiations, ie the more discounts a tied tenants gets the higher their FMOP and their dry rent.

Best,

Tel: 020

From:
Sent: 18 June 2013 14:51
To:
Cc:
Subject: RE: meeting today

We just spoke and I said I would try and give you a clearer explanation of what I was saying about the potential implications of the guest beer option. Please note that this just represents my own current thinking and is by no means a fully considered or final point of view.

If given a guest beer option the most profitable option for a publican seems to depend on the relative potential margin changes and sales. His or her profit change would be the change in margin (difference in price between buying out of the tie and buying from the pubco) multiplied by sales. Unless something strange happens with the margins, for example if the premium on one beer is very different to others, the dominating factor seems likely to be sales. As such, the most profitable option is likely to be having a brand of the best selling type of beer as the guest beer. For most pubs I understand this would be a mainstream lager. This much I think is well understood.

An additional factor is that the rent of the pub is likely to be set based on publican making a choice that maximises their profit as a reasonably efficient operator might be expected to. As such, if a publican chose to stock a niche product instead his best seller, he may find that he is paying a higher rent as well as missing out on profits. As a thought exercise, below is a hypothetical example where taking a best seller as a guest beer adds £1000 to the pub's divisible balance and taking a niche beer as a guest beer adds £100 to the divisible balance.

	Guest best seller	Guest niche
Divisible balance change (1)	+1000	+100
Rent change (2)	+500	+500

Overall change (1-2)	+500	-400
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As you can see the publican doesn't just miss out on extra profit; he may also have to pay a higher rent because a reasonably efficient operator would have increased the divisible balance by £1000.

It is important publicans understand this when they consider how they might behave with a guest beer option.

As I stated at the outset, these are just my own thoughts and are still very much subject to change depending on evidence in the consultation responses.

| Consumer and Competition Policy | Department for Business, Innovation &

Skills

From: [mailto: [redacted]@fsb.org.uk]
Sent: 17 June 2013 18:02
To: [redacted]
Cc: [redacted]
Subject: RE: meeting today

Dear

We are in the process of commissioning research to establish with greater certainty the impact a guest beer option and a free of tie option would have on the beer industry.

The idea was to survey tied publicans and ask them what they would do if they were given a guest beer option (eg. put another lager on tap, put a local beer on tap, or rotate beer from micro breweries). We also want to research what changes tied publicans make to the beer they have on tap if they could go free of tie.

We are commissioning CGA strategy, and we are looking at a sample of between 500 to 600 tied publicans. The field work would be completed by end of July, and we were planning to give the raw data to BIS, and publish a report based on the data.

In terms of quantifying the impact on the beer industry, we are planning to collect volume information, ie barrels per annum. So we could then establish how many barrels of lager, local beer or craft beer would be bought/sold as guest beer by tied publican per year. For the free of tie option we would establish how many barrels of various beers tied publicans currently sell per year, and how the mix would change if the tied tenant would go free of tie.

Do you think collecting the volume data would be useful?

Best,

Tel: 020 7556 1111

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13 Emails from BIS and Pubs Advisory Service

New policy lead on pubs

Page 1 of 3

D13/850930

From:
Sent: 25 April 2013 19:29
To: 'Pubs Advisory Service' (CCP)
Subject: RE: New policy lead on pubs
Chris

Thanks for clarifying what PAS is. We will ensure that we use the correct description in future, and my apologies for any inconvenience.

Department for Business, Innovation & Skills | Consumers & Markets | Consumer & Competition Policy Directorate
London, SW1H 0ET | T: 020 7066 1000 | www.bis.gov.uk | 1 Victoria Street,

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From: Pubs Advisory Service [mailto:pubsadvisoryservice@btconnect.com]
Sent: 22 April 2013 11:10
To:
Subject: RE: New policy lead on pubs

Thanks, only one correction/clarification needed to your recent publication – "A new Pubs Advisory Service has been established by an independent tenants group;"

I am not a tenant (never have been) and serve as the sole director on the Pubs Advisory Service Ltd - the service providers on Pas panel are all active professionals in their respective fields of which only one that I know of has a share in a pub.

In the very early days another tenant called David Mountford provided us with help in registering the web name he did nothing else since and takes no active role in the PAS.

Given the above I would find it hard to agree that the PAS is described as being established by independent tenants - it is a limited company with no tenants on the board – your statement may give others in the trade the wrong impression.

Sincerely

Chris Wright

PAS

18/07/2013

(Review)?

From:
Sent: 22 April 2013 09:42
To:
Subject: New policy lead on pubs

All,

Following the publication today of the Government's consultation on pub companies and tenants (which I hope you should have already received an email about), I am pleased to inform you that I am handing over the policy lead on this topic to my successor,

<https://www.gov.uk/government/consultations/pub-companies-and-tenants-consultation>

Although I will be remaining in the team until the end of the month to ensure a smooth handover, please contact [redacted] in the first instance regarding any questions you might have on the consultation. Her details are:

I have very much enjoyed working with all of you on this policy area over the last two years.

Regards,

[redacted], Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor,
1 Victoria Street, SW1H 0ET | Direct line:

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14 BIS report of roundtable series, 28 January 2013

D13/254589

[REDACTED] (CCP)

Subject: Draft roundtable 28th January
Roundtable series on pubs - 28th January

Jo Swinson, BIS
BIS
BIS
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Brigid Simmons, Chief Executive, British Beer and Pub Association (BBPA)
Andy Slee, Punch Taverns
Jeremy Beadle, Star Pubs & Bars, Heineken

The licensors set out the importance of tied pubs and their value as a means of allowing people to run their own business/ pub without a large capital investment. They noted that licensors have a vested interest in keeping pubs open and operating effectively, as a percentage of their profit comes from the sale of wet products.

The possibility of a mandatory free of tie option was discussed. The Minister noted that for Government what was key was the principle that 'a tied licensee should be no worse off than a free of tie licensee' however it was clear that there were strong feelings in some quarters that there should be a mandatory free-of-tie option. It was not the existence of the tie that is felt to be problematic but the abuse of the tie.

The licensors agreed that the tie itself was not problematic - noting that free of tie pubs close at a faster rate than tied pubs. They noted that the choice between a tied and free-of-tie model already exists (although offering a free-of-tie option is not mandatory) and that it was not an attractive option for tenants.

There was concern expressed that offering a mandatory free-of-tie option would damage company operating models as margins would be dependent on the number of tied vs free-of-tie tenants across their business. There would be less incentive for pubcos to invest in their property by providing additional services such as Sky. The BBPA indicated that several of their members would be likely to suffer significant commercial hardship and that this was likely to result in decisions to withdraw from the market and the closure of a large number of pubs.

| Private Secretary to Jo Swinson - Minister for Employment Relations
and Consumer Affairs | Department for Business, Innovation & Skills |
[@bis.gsi.gov.uk](mailto:ps@bis.gsi.gov.uk) | T: +4420 7215 | www.bis.gov.uk

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15 BIS report of roundtable series, 5 February 2013

013|672028

[REDACTED] (CCP)**Subject:** Draft roundtable 5th February**Attachments:** Save the Pub Group.pdf

Roundtable series on pubs - 5th February

Jo Swinson - Minister, BIS

PS to Jo Swinson

- BIS

- BIS

Greg Mulholland MP - Chair All Party Parliamentary Save the Pubs Group

Greg Sunderland - researcher for Greg Mulholland

Brandon Lewis Minister, DCLG

PS to Brandon Lewis

DCLG

Greg Mulholland presented the attached document on pre-consultation considerations for for the statutory code of practice for pub owning companies.

The points made by the paper were discussed. In particular Mr Mulholland drew the Ministers attention to the following points made in the paper:

- putting the code on a statutory footing will not be enough - it is vital that the core principle that a tied licensee is no worse off than a free of tie licensee remains the focus of the reforms

2 suggestions were put forward by Save the Pubs Group to achieve this:

a) A rent only option (this would include existing licensees)

b) A beer pricing option (this would involve monitoring and enforcement

of adherence to a formula designed to ensure that any increase in beer prices would lead to

compensatory reduction in rent

- the code should include flow monitoring

- a de minimus threshold should be applied

| Private Secretary to Jo Swinson - Minister for Employment Relations
and Consumer Affairs | Department for Business, Innovation & Skills |
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03/06/2013

16 List of meetings in scope of FOI 13/0827

LIST OF MEETINGS IN SCOPE OF FOI 13/0827
Pubs Stakeholder Meetings 2012/2013

Date	Stakeholder	Officials/Minister
16 Jan 2013	Pubs Advisory Service	Officials
22 Jan	Roundtable with licensee groups: British Institute of Innkeeping, GMB, Federation of Licensed Victuallers Association, Association of Licensed Multiple Retailers, Brighton & Hove Licensees Association, CAMRA, Fair Pint, Independent Pub Confederation, Federation of Small Businesses, Guild of Master Victuallers	Jo Swinson MP & Officials
24 Jan	Greene King	Officials
24 Jan	Greg Mulholland MP	Jo Swinson MP & Officials
28 Jan	Roundtable with British Beer and Pub Association; Punch Taverns; Star Pubs & Bars	Jo Swinson MP & Officials
5 Feb	Greg Mulholland MP	Jo Swinson, Brandon Lewis & Officials
7 Feb	Roundtable: Greene King, Shepherd Neame, Everards, Admiral, Hook Norton, Independent Family Brewers of Britain	Jo Swinson MP & Officials
27 Feb	Enterprise Inns	Michael Fallon MP & Officials
19 April	Punch Taverns	Officials
9 May	Punch Taverns & Compass Lexecon	Officials
5 June	Star Pubs & Bars	Officials
6 June	Federation of Small Businesses	Officials
10 June	1 st Roundtable: Everards Brewery, Fullers, Admiral, Hook Norton, McMullen & Sons, Shepherd Neame, Wadworth & Co, Trust Inns, Greene King, Titanic Brewery, Westerham Ales, Society of Independent Brewers.	Jo Swinson, Brandon Lewis, & Officials
12 June	2 nd Roundtable British Beer and Pub Association, Enterprise Inns, Marston's, Mitchell's & Butler's, Punch Taverns, Spirit, Star Pubs & Bars, Wellington.	Jo Swinson, Brandon Lewis, & Officials
13 June	3 rd Roundtable: Association of Licensed Multiple Retailers, Brighton & Hove Licensees Association, British Institute of Innkeeping, CAMRA, Fair Pint, Federation of Small Businesses, Federation of Licensed Victuallers Association, GMB, Guild of Master Victuallers, Independent Pubs Confederation, Justice for Licensees, Pubs Advisory Service, Licensees Supporting Licensees	Officials
14 June	Admiral Taverns	Officials
14 June	Punch Taverns	Officials

17 BIS note of meeting with Punch Taverns

Note of meeting with Punch Taverns, 19 April 2013 at BIS

Attendees

BIS

Julie McLynchy, Deputy Director, Consumers and Markets
 Chris Jenkins, Deputy Director, Economics and Competition Policy
 Binnie Goh, Head of Competition Law Team
 , Legal Advisor, Competition Law
 Assistant Director, Consumers and Markets
 Assistant Director, Consumers and Markets

Punch Taverns

Stephen Billingham, Executive Chair
 Andy Slee, External Affairs Director
 Stuart Gallyot, Director of Legal & Estates
 Michael Rowe, Partner, Slaughter & May
 Associate, Slaughter & May
 , Trainee Solicitor, Slaughter & May

Background

1. Stephen Billingham (SB) wrote to on 26 March 2013 requesting a meeting in advance of the Government's consultation on a proposed Statutory Code of Practice to manage the relationship between pub companies and their tenants. The letter outlined Punch's view that the proposed Code was unnecessary and potentially illegal.

Main issues raised by Punch

2. Andy Slee (AS) opened by commenting that successful pub companies needed successful tenants. Punch had invested £45m this year in improving its estate. Punch agreed the rent on a property using the RICS guidance and agreed beer pricing and services to be provided and encouraged tenants to take legal and accountancy advice before signing. The advantages to a tied tenant included low cost access to a high value property, lower fixed costs and provision of additional services. Punch had more to lose than a bank so it would be more likely to step in and help a pub in financial distress.

3. AS commented that the pub companies including Punch had followed the BIS Select Committee (BISCOM) recommendation for an industry code of practice in 2010. Many pub companies, including Punch, had gone beyond the legally-binding Pub Industry Framework Code and had produced a more comprehensive code for tenants. There were also two levels of arbitration introduced through PICAS covering rental disputes and any other disputes. There had been over 300 enquiries from tenants [of all pub companies?] and only three had reached PICAS.

4. Michael Rowe (MR) advised that the proposed consultation would not be welcomed by the pub companies as such reviews always introduced instability into a sector and would be damaging to tenants. In recent times, there had been investigations by the European Commission, OFT and

BISCOM. The OFT had concluded that from a competition perspective, the market was working well and that there were no grounds to intervene. There was a vociferous lobby group that did not always understand the benefits of the ownership structure or the benefits to the consumer, and a small number of the most vocal tended to drown out the majority of tenants.

5. MR outlined the key legal points of concern to Punch. Firstly, there was no sound legal basis for the introduction of a mandatory free-of-tie. Under the ECHR, there was a right to protection of property and the proposals could impact on the right of pub companies to earn an income. Whilst the Government was entitled to interfere, there were constraints – intervention had to be in the public interest. In this instance, there was no competition issue and, as such, no public interest. There was not the same mischief/detriment requiring statutory intervention as there was in the grocery market. The industry self-regulatory approach went a substantial way to address concerns raised and there was a lack of substantiated evidence to justify intervention.

6. To introduce a mandatory free-of-tie, Government would need to establish what the mischief is, substantiate it and consider whether interference with the property interests of the pub companies was proportionate based on the measures already in place. The effect on the vulnerability of pubs needed to be considered. The average pub had 10.8 employees and contributed £80 to £100k to the local economy.

7. Secondly, the findings of any consultation had to be reliable - the right people, a reasonable cross-section and questions constructed in the right way. There should be a level of engagement prior to the launch of a consultation. From comments seen in correspondence, Punch was concerned that positions had already been taken by the Government. This was worrying when the Government was playing a quasi-judicial role and therefore needed to be open-minded.

8. To support their view that positions had already been taken, Punch referred to letters sent by Lib Dem MPs, including the DPM, to two constituents in response to correspondence on the beer duty. The wording in the letters implied that the Secretary of State was being impartial and had pre-judged the issue:

"I am also supporting Vince Cable's action to stop large pub companies from charging extortionate prices for beer from their 'tied pub' clients. This practice is unfair and drives up the price of beer for consumers, so Vince is right to step in and stop unscrupulous pubcos who often overcharge pubs by 40% or 45% for their beer."

BIS response

9. advised that there was a limit to what BIS could say until the consultation had been published.

10. On the mandatory free-of-tie issue, the Secretary of State had commented that it was an important question that should be consulted on during the January debate. assured Punch that no position had been taken. Ministers would consider proportionality and the impact before decisions were taken. An open question about mandatory free-of-tie would be asked and the consultation would help BIS understand whether such an option was a proportionate response or not.

11. In terms of the structure of the consultation, noted that there were differences between a Competition Commission consultation under the powers of the Enterprise Act. BIS had consulted openly and widely as part of the pre-consultation process including with AS and the BBPA, and the consultation itself would also be open and wide. The planned consultation also aimed to reach the "silent majority" – those that did not usually engage with Government – through an on-line questionnaire. In some cases the views of BBPA, among others, were sought on the proposed questions. The various industry meetings with Ministers had also helped ensure the consultation asked the right questions. The response form would also provide scope for individuals to add further comments if it was felt the right question hadn't been asked.

12. reassured Punch that while BIS Ministers had publicly stated they believed there was an issue and would consult, they were open-minded about the remedy. BIS was not aware of the MP letters and assured Punch that the wording had not come from BIS.

13. confirmed that responses to the consultation would be published, unless BIS was asked to withhold responses by individuals, and that would be done subject to the Freedom of Information Act noted that IP addresses could be tracked to spot whether multiple responses were coming from the same IP address.

14. advised that the basis for Government action was not on competition grounds - in 2010 the OFT had found there were no competition issues affecting consumers. The proposed intervention was about achieving fairness for tenants and to address concerns around an imbalance of bargaining power.

Actions agreed

- Punch to share the correspondence referred to with BIS, redacting names as appropriate.
- Punch offered to share with BIS the economic impact evidence it had commissioned from Compass Lexecon. For transparency reasons, BIS advised this should be supplied during the consultation period.

1 May 2013

Consumers & Markets Team, BIS

18 Letter from FLVA

303 ✓

013/656113

FLVA

PUBLICAN'S PARTNER

The Secretary of State for Business Innovation and Skills
The Rt. Hon. Dr Vince Cable MP
The Department for Business Innovation and Skills
1 Victoria Street
LONDON
SW1H 0ET

The Raylor Centre

James Street
York
YO10 3DW
Tel 01904 415469
Fax 01904 413229
Email admin@flva.co.uk
www.flva.co.uk

12th April 2013

Dear Secretary of State,

We write to express our concern at the delay in progressing Governance arrangements for the Pub Industry. Given the intervention from the Chancellor we have written in identical terms to him. Governance arrangements reached a crossroads, when self Governance discussions collapsed, which forked towards a welcome Government led solution. However since that time the process seems to be going around on an endless roundabout.

We sense increasing activity, lobbying and ongoing pressure from the Pub Co's, BBPA and the Beerage and we do not possess the financial resources these bodies have to communicate the position of the individual Licensee. It is for this reason we seek a meeting at Ministerial level to re balance the process and be afforded the same courtesy recently extended to these bodies.

The current perception fostered by these bodies is one of an Industry which does not wish to see more COP and Governance red tape. This is a red herring tailored to distract a Government that quite rightly wishes to see this minimised. This false picture together with the wish for individual Companies to effectively write their own COP's as a means to incorporate so called competitive advantages completes a picture these bodies wish to paint.

Our view of the Code of Practice is simple, to secure a single comprehensive Universal Code for all Pub operating entities irrespective of size of Estate. In terms of red tape this is infinitely less complex than the cats cradle of a framework Code followed by scores of individual Company Codes. The recent Grocery Code is a Universal Code and operates for all, there isn't a separate Tesco, Asda and Sainsburys Code. Should Pub Co really wish for the bureaucracy of a separate Code this should only be on the basis of how they will administer the Universal Industry Code ; not allow them to write their own Codes as is presently proposed.

In essence the Enterprise Code should match the Fullers Code the Shepherd Neame Code should match the Punch Code, one Code for all .Contrast this with the current situation where individual Codes can place individual content, interpretation emphasis and tone within their own Company Codes.

Additionally and importantly in relation to the "500 debate" we caution against taking a view that big company is bad and small Company is good and view with deep suspicion any Company which seeks to operate outside this one Code approach.

The Industry has operated on a Universal COP basis previously and should do so again, underpinned this time by statutory authority and protection. This is surely what the Government have in mind.

We have refused to sign the latest BBPA Code and rather than being railroaded into accepting the BBPA issued Code we have written to the BBPA offering to jointly pull together this Universal Industry Code and we await their reply.

If the Beer Orders of 1991 begat the Pub Co's as an unintended consequence, we shudder to think how newly created sub 500 Pub Co's would evolve and operate, particularly in the knowledge that both Punch and Enterprise are likely to divest a significant portion of their Estate over the next few years. Should this be combined with a clumsy interpretation of the FOT issue these new entities, probably private equity driven could make the Pub Co's look like John Lewis. Again this could bring about another set of unintended consequences.

As an overriding principle the FLVA support the Beer tie albeit in a reformed format and view the assembled aggregated Beer discounts as vital to the Pub Co's and invaluable to a potential new Business partnership Governance arrangements could bring about. In summary our current position is as follows.

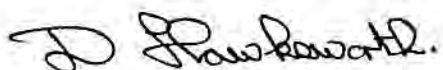
- A Universal COP for the whole Pub Industry "one code for all".
- Oversight from a Government appointed Adjudicator
- The completion of Governance body commitments made to Government particularly PAS. PAS is vital to ensure an independent advice and support conduit for Licensees to help them in accessing the Governance mechanisms and bodies to assist in the resolution of the problems BIS has so clearly identified.
- The assembly of an Industry Governance body on a "one body one vote basis".
- Support for the Beer Tie in a reformed format.

It is only when all these items are incorporated that a authentic and credible settlement which rebalances the inherent and BIS recognised imbalances can be assembled.

As a final note we were encouraged and pleasantly surprised by the Chancellors approach to the Beer escalator, having failed to persuade the Pub Co's to desist from their own escalators in the form of their destructive practice of "phantom annual price increases". These practices where so called Brewery price increases are passed on to tied tenants by Pub Co's which do not pay these increases themselves is one of the root causes of the difficulties plaguing the individual Licensee. We continue to press for Licensee price increases that only impact on the Pub Co in the same cash quantum as those paid by the Pub Co's to their Brewery suppliers. This would seem to represent a clear overdue reform of Beer tie abuses in pursuit of fairer Beer Tie practices.

We look forward to hearing from you.

Yours Sincerely



David Hawksworth
President
Federation of Licensed Victuallers Associations

19 Email from BIS about round table with licensee groups

122

013/43536

[Redacted] (CCP)

From: I (CCP)
 Sent: 11 January 2013 12:01
 To: [Redacted]; 'Jonathan Mail'; 'Kate Nicholls'; 'Dave Mountford';
 [Redacted]; [Redacted]; [Redacted]; [Redacted]; [Redacted];
 Cc: [Redacted] (CCP)
 Subject: Pubs Meeting

Dear All,

Following the announcement and debate on pubs this week, the Minister (Jo Swinson) would like to hold a round table with licensee groups to discuss the forthcoming consultation on a pub code and adjudicator.

Key questions that the Minister would like to explore include:

- Should the Code include a mandatory free of tie option?
- Other than the two overarching principles already announced, are there any other particular elements that should be addressed in the Code (taking V6 as the starting point)?
- Who should the new regime apply to? (All companies with over 100/200/500 pubs/tied pubs/tied leases)?

She would also of course be very happy to hear any other points you wish to make.

I recognise that not all of you will have exactly the same views on these issues - some of you are members of the IPC, others are not, and even within the IPC there are differences of view. That is why the Minister would like a round table format, in which each representative can give the views of their organisation, in order to draw out where there is agreement and where there are differences of opinion. The meeting will start from the position that the principles of fairness and that a tied licensee should be no worse off than a free of tie licensee are 'common ground', but explore how to achieve this.

Once a number of you have confirmed that you would like to attend this round table, I will ask the Minister's diary secretary to arrange a time. I hope to hear from you soon.

Regards,

Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET | Direct line: +44(0)20 7

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20 Emails, November 2012

J(CCP)

From: Swift Jane (CCP)
Sent: 26 November 2012 11:09
To: Mansfield Iain (CCP)
Subject: FW: PUB INDUSTRY REFORMS - ACCESS TO INFORMATION

Jane Swift | Deputy Director | Competition Policy | Department for Business, Innovation & Skills | jane.swift@bis.gsi.gov.uk | Orchard 2, Level 3, 1 Victoria Street, London, SW1H 0ET | +44 (0) 7215 5420 | www.bis.gov.uk | Fax: +44 (0)20 7215 2234

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From: siclarke
Sent: 26 November 2012 10:59
To: Swift Jane (CCP); Quigley Faith (CCP)
Subject: PUB INDUSTRY REFORMS - ACCESS TO INFORMATION

Dear Jane

I know you will have plenty to read ! but I thought this one example puts it in a nutshell - received moments ago.

has been bled dry and can not afford representation (I am helping her pro bono - one of dozens).

She has asked Enterprise Inns to support their rent assessment for her pub, they have refused any justification comparable evidence. As you will see below she is now forced to the expense of a third party where the information she has asked for will then be revealed. It is like evidence being put before a court without giving notice to the defendant.

Any evidence to be used in the rent assessment procedure at third party should be disclosed to all parties before the referral procedure even begins not withheld and used as an attempt to entrap. there has been no effort here to actually try and justify the rent or negotiate a fair settlement - just "like it or lump it." There has not even been any meaningful dialogue - simply "we think the rent is X and here is a calculation with a set of variables we have chosen that adds up to that amount".

What Enterprise are saying is that they have the required information and the tenant must either take their word for it or go to court if they want to see the rent justification.

In my eyes, in the knowledge of her financial circumstances, Enterprise are straightforwardly bullying and intimidating to get a desired rent that will almost certainly result in business failure, but they have as a guarantor and so can bankrupt her getting any money back from the sale of any assets she may have.

Perfect example of lack of open access to information needed by Tenants in order to allow them to make a sound commercial decision or to resolve disputes fairly - raised in the Challenges of Government Response.

Simon

-----Original Message-----

27/11/2012

From:~
To: Simon Clarke
Sent: Mon, 26 Nov 2012 10:24

Hiya,

I wrote to [redacted] about Enerprise pubs near me and the barrelage and this was her reply. Did you have any thoughts on my getting someone to represent me and me paying for it?

W.

"Morning,

I understand that the rent review is now being handled by the PIRRS scheme. You may wish to talk to your advisor as our comparable evidence will be submitted as part of our submissions now.

thanks"

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21 Email from BIS, December 2012

CCP)

012/1547307

From: : (CCP)
Sent: 19 December 2012 17:22
To: 'siclarke@' ;
Cc: ; (CCP); (CCP); (CCP)
Subject: Pub Industry
Attachments: RT HON VINCE CABLE MP TO ADRIAN BAILEY MP 19 DEC 2012.pdf

Dear Simon,

Further to your correspondence with , you should now have received a copy of the Secretary of State's most recent letter to the BIS Committee, in which he said that the changes over the past year "do not appear to have engendered the culture change that is needed" and that "significant numbers of individual publicans are continuing to face serious hardship and difficulties in operating in this industry."

As the letter indicated, the Secretary of State is considering options over Christmas and will write to the BIS Committee again in January.

In light of that, we'd be grateful if you would be able to come in for a short meeting with and me on 2nd, 3rd or 4th January. This would be an opportunity for us to discuss, on an informal basis, the Secretary of State's preferred option(s) and to feed back to him any thoughts you might have. Clearly any decision will ultimately be based on the evidence received in the call for evidence; however, it would be helpful to have a safe space to test ideas in advance of any announcements, in case anything has inadvertently been overlooked.

I would be grateful if you could treat this email, and the discussion on the day, as being in confidence, at least until after the Secretary of State has sent his second letter to the BIS Committee.

For your information, we are writing in similar terms to Brigid Simmonds of the BBPA (though the two meetings will be separate).

I hope you will be able to meet that week and look forward to hearing what time would suit you best.

Regards,

Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET | Direct line: +44 (0)20 7034 7000 | cas@bis.gsi.gov.uk

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29/05/2013

22 BIS email about CAMRA campaign

(CCP)

013/656013

From: McLynchy Julie (CCP)
Sent: 29 May 2013 15:05
To: (CCP)
Subject: FW: CAMRA MP campaign on pubs

From: (CCP)
Sent: 03 January 2013 11:18
To: McLynchy Julie (CCP); (CCP);
Cc: Swinson MPST; SPAD CABLE MPST; Cable MPST; (CCP); (Communications); Party Unit - Others
Subject: CAMRA MP campaign on pubs

Julie ci

To be aware - CAMRA is urging its members to lobby their MP in advance of next Wednesday's debate.

<http://campaign.publicaffairsbriefing.co.uk/home.aspx?cid=001144f1-fbdc-4e9e-875b-b5fa29e177fd>

The wording is not unhelpful - what we are planning to announce would meet much of what CAMRA is calling for, though they do also ask for 'free of tie option in the detail.

"Lobby your MP - Pubco Reform Debate

With CAMRA's support the Labour party has secured a high profile Parliamentary debate on Wednesday 9th January which urges the Government to put a legally binding framework in place to protect publicans and save your local community pubs. A legally binding framework is required to protect lessees and their pubs from the high rents and tied beer prices charged by the big pub companies.

To make the most of this opportunity we need your help to persuade your MP to attend the debate and speak in support of your local pub industry. We have just 7 days to make a difference so please take two minutes to email your MP asking them to attend this debate and show their support. "

The letter

"I am writing as your constituent and as a member of CAMRA, the Campaign for Real Ale to ask that you please attend the Opposition Day debate on Wednesday 9th January 2013 on a "Statutory Code of Practice for Pub Companies". CAMRA wants to see a legally binding framework to support the relationship between individual tied publicans and the large pub companies by ensuring a fair split of business risk and reward.

This follows the Parliamentary debate held on 12th January 2012, where MPs unanimously passed a motion calling for the Government to commission an independent review into the large pub companies in Autumn of last year due to concerns over the business practices of large pub companies. However, the Government has ignored the clear will of Parliament and failed to initiate a review in Autumn 2012 as required by the motion.

A legally binding framework is now urgently needed: since January 2012 pub closures have accelerated to 18 every week and countless individual licensees have lost their homes and livelihoods. Many thousands more tied pubs face disaster if this issue is not addressed.

Delivering a positive and fair business relationship between the large pub companies and their

lessees will help secure a sustainable future for our local pubs and allow publicans to invest in their pubs and provide an excellent service to customers. The large pub companies have been attempting to put in place a system of effective self regulation since 2004 but have made very little progress in eliminating concerns of unfair business practices. The Business Secretary Vince Cable has now recognised that voluntary changes made by pub companies "are not as far reaching as [he] would have liked" and so he is "considering the possible options".

CAMRA believes a light touch solution would be to implement a legally binding framework to ensure:

- guidelines on rental calculations are more effectively constituted and implemented to better ensure rents are fairly calculated
- that pub companies with more than 500 tied pubs provide their lessees with the option of becoming free of tie accompanied by a rent review. Lessees that choose to remain tied should be given the option of stocking one guest real ale free of tie.

Thank you for your time and I look forward to watching your contribution in the debate. If you'd like to hear more about life as a pubco licensee CAMRA has produced a film at <http://www.camra.org.uk/beertie>. "

, Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET | Direct line: +44(0)20

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23 BIS email, February 2013

[REDACTED] (CCP)

From: (CCP)
Sent: 01 February 2013 15:21
To: Ravenscroft James (CCP)
Subject: Simon Clarke's view on what 'no worse off' means

"RFM I think Brian has already created such a formula it has been more or less spot on for years. Put simply work out what you would earn FOT take that from the tied net profit before rent (NPBR = divisible balance) and there's your tied rent. Genuine SCORFA's can be incorporated as a cost saving (increasing the tied NPBR) and therefore the rent. You are of course correct something so fair would not be acceptable to pubcos and brewers as it denies them the opportunity to take more than they should from a pubs profits."

la Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET | Direct line: +44(

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24 BIS emails, January 2013

(CCP)

013/813026

From: Mansfield Iain (CCP)
Sent: 09 January 2013 09:33
To: 'siclark.'
Subject: RE: Pub Companies and Licensees

Simon,

Thank you. It was good to see that some of your members have already welcomed the news.

On the question you raise, it's a good one. We weren't specifically making distinction between pub owning companies and pub companies; however the question of who exactly this new regime will apply to will need to be developed in the lead up to and during the consultation. As the letter indicates, Government's current position is that:

- It recognises that the tie can be used well and responsibly and also be exploited.
- It wants to stamp out abuses of the tie.
- It doesn't want to put a burden on those who have been acting responsibly, such as all/most of the family brewers.

And of course, it doesn't want to do something that can be gamed.

How we do that, i.e. what threshold we choose (500, 100, etc.), whether we make a distinction between leases and tenancies (as V6 of the Code does), are all things we need to properly work through.

Regards,

Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET | Direct line: +44/

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From: siclark
Sent: 08 January 2013 15:16
To: (CCP)
Subject: Re: Pub Companies and Licensees

This is good news and definately something I think IPC will consider to be a big step in the right direction.

One immediate thought on reading the letter.

Did you mean to isolate pub companies from pub 'owning' companies and leases from 'tied

29/05/2013

agreements' ?

My point being we believe those abusing the tied model are well capable of circumventing attempts to reform it where they can seek their own interpretation. Some brewers currently use the pubco tied model and some pubcos are already seeking to convert agreements into tenancies to overcome the scrutiny on leases. what is to stop a pubco buying a small brewer and side stepping the stat code ?

Simon

-----Original Message-----

From: [redacted] (CCP) <[redacted]>
To: [redacted] (CCP) <[redacted]>
Sent: Tue, 8 Jan 2013 14:51
Subject: Pub Companies and Licensees

Dear All,

Please note, for your information, a letter that has just been sent by Secretary of State Vince Cable to the BIS Select Committee, as well as our departmental press release.

<<Vince Cable to Adrian Bailey MP [Pub Companies and Licensees] pb0801.pdf>>

<https://www.gov.uk/government/news/press-release-new-proposals-to-stand-up-for-british-pubs-and-prevent-unfair-practices>

Regards,

| Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor,
1 Victoria Street, SW1H 0ET | Direct line: +4

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25 BIS emails, January 2013

013/813057

(CCP)

From: Swinson MPST
Sent: 10 January 2013 11:30
To: (CCP)
Cc: Cable MPS; Swinson MPST Correspondence; Perm Sec (BIS); Kelly Bernadette (MLG CS); Normand Caroline (CCP); (CCP); (CCP); McLynchy Julie (CCP); (CCP); (LEGAL B); (Communications); (Communications); Swinson MPST
Subject: RE: Ministerial pub meetings - suggested

The Minister has agreed your recommendation to have five meetings, and we'll work with you to get these times in the diary (though 1 hour per meeting is not possible I'm afraid).

Thanks

| Senior Private Secretary to Jo Swinson MP | Department for Business, Innovation & Skills
 mpst.swinson@bis.gsi.gov.uk | 1 Victoria Street, London, SW1H 0ET | 0207 215 5229 | www.bis.gov.uk |

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From: Mansfield Iain (CCP)
Sent: 09 January 2013 10:03
To: Swinson MPST
Cc: Cable MPST: Swinson MPST Correspondence; Perm Sec (BIS); Kelly Bernadette (MLG CS); Normand Caroline (CCP); (CCP); McLynchy Julie (CCP); (CCP); (LEGAL B); (Communications); (Communications)
Subject: Ministerial pub meetings - suggested

As discussed earlier this week, a short sub on who we think the Minister should meet prior to us publishing the consultation.

Purpose

1. To make recommendations as to which pubs stakeholders the Minister should meet prior to us publishing the consultation. A number of stakeholder groups on both sides have started asking when they can meet the Minister, and we consider it would be very helpful for the Minister to hear the arguments and range of views on all sides before we finalise the policy in the consultation.

Timing

2. **By Monday 14th.** It would be very helpful to get these meetings in the diary for late Jan or early Feb at the latest, given the speed at the Secretary of State wishes this policy to progress.

Recommendation

3. That the Minister agree to five meetings, as follows:
- BBPA and large pubco members
 - Round table with licensee groups, including at least ALMR, IPC, Fair Pint, CAMRA and FLVA.
 - Independent Family Brewers of Britain and sample members
 - All Party Parliamentary Save the Pubs Group
 - Brandon Lewis, DCLG Community Pubs Minister (has already requested a meeting).

Analysis

4. These meetings, together, will give the Minister exposure to a wide range of views. The round table in particular will offer the prospect of exploring the diversity of licensee views - the ALMR, for example, a moderate licensee group, has already contacted us following yesterday's announcement saying that they hope we do not go for a free of tie option, whilst Fair Pint has said it would be desirable. The meetings are also even-handed: excluding Brandon Lewis, a Government Minister, the Minister will be having two meetings with pubcos/brewers and two with groups who represent licensees.
5. As well as listening to any points that the stakeholders wish to put forward, we suggest there would be three key questions to explore at each meeting:
 - Should the Code include a mandatory free of tie option?
 - Other than the two overarching principles already announced, are there any other particular elements that should be addressed in the Code, or would using Version 6 be satisfactory?
 - Who should the new regime apply to? (All companies with over 100/200/500 pubs/tied pubs/tied leases)?

Next steps

6. If the Minister agrees with this recommendation, we recommend that the meetings are put in diaries as soon as possible. Ideally 1 hour would be allowed for each meeting.

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26. Invitation to a meeting

013/48686

(CCP)

From: (CCP)
Sent: 11 January 2013 12:15
To: 'Kate Nicholls'
Cc: 'ALMR (Nick Bish)'; [REDACTED] (CCP); [REDACTED] (CCP)
Subject: Officials meeting next week?

Dear Kate,

Further to my email to a range of licensee groups, I'd be very grateful if you could come in for a meeting with me and other officials working on this issue, perhaps towards the tail-end of next week or early the following. It would be very good to hear your views on all of this.

Regards,

| Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET | Direct line: +44(0)20 7

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27 Invitation to a meeting

(CCP)

013/43257

From: [REDACTED] (CCP)
Sent: 11 January 2013 12:11
To: [REDACTED]; 'Simon Longbottom'
Cc: 'Jonathan Neame'; [REDACTED]; [REDACTED] (CCP); [REDACTED]
Subject: [REDACTED] (CCP)
Pubs meeting with Minister

Dear James/Simon ci Jonathan,

Following the announcement and debate on pubs this week, the Minister (Jo Swinson) would like to have a meeting with the IFBB and some of your members, to discuss the forthcoming consultation on a pub code and adjudicator. She would also like to invite Greene King to this meeting, as a larger company which operates a similar model.

This meeting would be a key opportunity for the Minister to discuss what is meant by the 'traditional brewery tenancy' model of operating the tie and what it means to your businesses. Key questions that the Minister is seeking to explore include:

- Should the Code include a mandatory free of tie option?
- Other than the two overarching principles already announced, are there any other particular elements that should be addressed in the Code (taking V6 as the starting point)?
- Who should the new regime apply to? (All companies with over 100/200/500 pubs/tied pubs/tied leases)?

She would also of course be very happy to hear any other points you wish to make.

If you confirm that you would like to come to this meeting, I will ask the Minister's diary secretary to arrange a time. I hope to hear from you soon.

Regards,

[REDACTED], Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET | Direct line: +44(0)20 7 [REDACTED]

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28 BIS officials' internal email

From: [REDACTED s.40](CCP)
Sent: 03 January 2013 10:57
To: McLynchy Julie (CCP)
Subject: FW: My musings on pubs

[REDACTED s.40] Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1
Victoria Street, SW1H 0ET | Direct line: [REDACTED s.40]

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From: Swift Jane (CCP)
Sent: 26 November 2012 12:49
To: [REDACTED s.40](CCP)
Cc: Normand Caroline (BE); Goh Binnie (LEGAL B)
Subject: My musings on pubs

<<Pub thoughts.doc>> <<pub thoughts annex.doc>>

Dear two ci Caroline, Binnie for info

I attach in one doc my emerging thoughts on pubs and in the other some illustration of who is
doing what beneficial thing and who else knows about it. Neither is intended to be
exhaustive of the facts or issues, and you may not agree with the stance anyway.

We are talking at 2.00pm about how to take this issue forward.

For completeness, in the light of what we have unearthed, my own view is that:

[REDACTED - Not in scope or s.35.1.a or s.36.2.6.ii]

J

Jane's thoughts

These are my general impressions having spoken to stakeholders and read their submissions.

General outlook

- There is a passionately held view that some pubco tenants are seriously disadvantaged in negotiations with certain pubcos on rental assessments because of lack of transparency of data, in particular, comparative performance data.
- There is worthwhile activity going on to build on the self regulatory deal announced November 2011. For example, PICAS is building its case load, negotiations are underway on V6 of the code and BIIBAS are developing their code accreditation processes and PAMs (their version of the PAS).
- However, this activity is highly fragmented. And across the industry there is a quite remarkable inequality of knowledge about developments, plus a number of red line positions, both of which appear to be barriers to co-operation and transparency. For some, the constant rhetoric about “collusion” is itself a barrier to open dialogue.
- There is no co-ordinated communication to tenants about their rights under the code and how the elements of the self-regulatory deal – PICAS, BIIBAS - fit together. Individual tenant representative bodies supportive of the code advise their own members and raise awareness through roadshows. As does the BII. But those who do not support the code do not communicate positively.
- There is unanimous agreement that the pubcos have done nothing, further to their letters to licencees in December 2011, to raise or maintain awareness of the code or the wider framework arrangements. The BBPA response to the SoS indirectly confirms this. However, one pubco, Spirit UK, claims to make the code part of regular training.
- Only certain tenant bodies are inside the code negotiation tent, working with the BBPA. These are ALMR and FLVA, although ALMR is not yet a signatory. BII, a training and accreditation body, is also within the tent. However, the negotiations are bilateral, not collective. ALMR appears to be playing a definitive role in seeking to drive some real improvements to the code, in particular, an independent supervisory board. Other bodies, like the IPC, remain resolutely outside the tent because the BBPA will not accept as part of the code discussions negotiation on “commercial” issues notably, a compulsory free of tie option. Those not represented are not aware of developments in Version 6, some of which are a partial response to some of their concerns.
- Nevertheless, all tenant representatives we spoke to held in common a wish for a code, in particular to drive transparency of data; for tenants to understand the code; for tenants to have access to advice to equip them for discussions with pubcos (people thought there could be a

number of providers in the market); for tenants to have access to prompt arbitration.

- There is some view that, if the self-regulatory deal is allowed to stall, then matters will drift. The SoS's letter to the industry was seen by some as well timed in lending impetus to discussions. There is a strong wish among some licensee bodies for the Government to continue to lend impetus to this exercise.

Options

[REDACTED s.35]

J

Progress on discrete aspects of the Self Regulatory Deal

Development

Who knows/agrees

Following services set up in last 5 years:

BIIBAS - benchmarking and accreditation of codes

PIRRS - low cost rent review dispute resolution

PICAS - conciliation/arbitration service re code breaches

BII CEO says “There has been progress and some success but understanding and appreciation of these new groups is still at an unacceptably low level. [The systems] are misunderstood and the level of trust is too low...many callers [to BIIBAS] do not know the correct way to proceed.

FLVA said “In relation to the progress in promoting and maintaining awareness to licensees of the new mediation and arbitration mechanisms, this has been patchy, confused and unsatisfactory. That said both current bodies PIRRS and PICA Service are established, supported and meet our original criteria.

GMB [in meeting] said PIRRS/PICAS not effective. Tenants needed fast track mediation to stem erosion of financial position. Tenant lack of power in rent negotiations stemmed partly from lack of knowledge about where to go and who to talk to. And from lack of transparency of data of comparator businesses.

IPC “have been excluded from any development proposals to promote awareness....IPC do not agree there is any awareness to be maintained as few tenants know what PICAS is”.

<p>PIRRS launched 1 September 2009. Low cost, max £1,500 cost, service in which licensee chooses independent expert to reach determination:</p> <p>Cases completed 13 Cases settled outside PIRRS 16 Cases closed by PIRRS 8 Cases pending 15</p>	
<p>PICAS launched March 2012, further to November 2011 announcement. Independent panel hears cases, chaired by Rodger Vickers or his deputy, with four other members drawn from pool of lawyers/accountants/licensed surveyors, other.</p> <p>2 completed cases (Each finding against pubco) 1 preliminary hearing (no case for PICA action) 1 case hearing due December 2 potential cases January</p> <p>Total 11 cases "in live folder".</p>	<p>Russell Stone (one of the 2 successful complainants) said "The administration of the PICA service was straightforward and efficiently handled and the communication was clear from the start and up to the panel hearing. The actual hearing [chaired by Rodger Vickers] was professionally undertaken and both parties had enough time to talk through their points and the questioning from the panel afterwards was relevant and fair".</p>
<p><u>Communication</u> of the Industry Framework Code Version 5, which contained a number of improvements listed in the BIS response to BISCOP.</p>	<p>Letter from Pubcos to all tenants in December 2011. But no apparent <u>systematic</u> pubco action to communicate and maintain awareness.</p> <p>Only BII, ALMR and FLVA are signatories to the code, negotiations on</p>

	<p>which are currently led by BBPA. Therefore, while individual trade associations may also seek to raise awareness among their members, other trade bodies who reject the code, will not do so.</p>
<p>Negotiation of Industry Framework Code Version 6 where apparently positive developments under discussion include:</p> <ul style="list-style-type: none"> • Requirement for pubcos to publish an annual statement of code compliance • Information which may be used in third party determination of rent should not be unreasonably withheld and should be shared on request... • Company Codes to include open and unlimited offer to apply the IFC to existing leaseholders and tenants. • Company codes to include a specific timetable for information to be provided in advance of rent negotiations, rent review and renewals....and for dispute resolution. • A pro-forma business plan, including data on the relevant pub, as a basis for prospective tenant's own business plan. 	<p>ALMR are in negotiation with BBPA on Version 6. <u>Separately</u>, FLVA are in negotiation with BBPA on Version 6. There appears to be no mutual transparency between the negotiations, even though there are areas of common interest/view – both the ALMR and FLVA support new <u>and independent</u> IFC Self Regulatory Board which, certainly ALMR, regards as achievable.</p> <p>The IPC represent themselves as excluded from the negotiations. In practice, as IPC do make clear, they have had two meetings with the BBPA. But IPC's wish to discuss comparator data for rent reviews/free of tie option meant that no mutual basis for discussion could be agreed.</p> <p>IPC and their members (inc GMV and FSB), the GMB and all of their tenants are not therefore privy to any code developments.</p> <p>The founders of the Pub Advisory Service (Dave Mountford/Chris Wright) say they have therefore developed a tenants' code. This was described in our meeting with GMB as a more user-friendly version of the Industry Framework Code. It was acknowledged by Mr Mountford</p>

<ul style="list-style-type: none"> • A new IFC Self Regulatory Board to monitor the code and determine the frequency and terms of reviews. 	<p>that this code would require the engagement of pubcos to have effect.</p>
<p>[REDACTED s.41 & s.43]</p>	<p>[REDACTED s.41 & s.43]</p> <p>All parties agree that there is room for a number of services in the market. Indeed, seeking to align them could create problems with competition law.</p>
<p>Other key points made in letters/discussions</p>	<p>Comment</p>
<p>Lack of pubco transparency was a common theme from tenant bodies – though ALMR thought their organisations, which are generally multiple outlets, better equipped to take pubcos on in negotiations. Access to comparator data on pub performance was a big issue for sole tenants represented by IPC, FLVA, GMB.</p>	<p>Not sure this is a government issue. It would be for the proposed new independent board to drive this agenda, in tandem with better equipping tenants for rental negotiations.</p>
<p>Pubcos are shedding pubs to service debt.</p>	<p>The article about Enterprise Inn’s results announcement suggested this was bottoming out. It also said that its rents were falling.</p>

Legally binding nature of code in doubt

Not sure how far the quoted difference in counsel opinion is relevant if the pubcos have stated to all tenants that they will be bound by the code. Which I assume the courts would take into account. For industry to resolve.

29 Ministerial submission

To: Jo Swinson; SoS
From: [REDACTED s.40]
Date: 4 December 2012



Subject: **Pubs: analysis of stakeholder submissions on self-regulatory deal and options for next steps**

Purpose:

To provide analysis of the submissions received regarding the pubs self-regulatory deal announced in November 2011 and advice on a range of possible options in light of our analysis.

Recommendation:

That you:

- **Note** analysis of the submissions received provided at Annex A
- **Agree** to meet officials to discuss the options set out at Annex B.

Timing:

URGENT - SoS will want to write to the BIS Select Committee updating them before Christmas recess therefore an early meeting to discuss would be welcome.

Summary:

1. Secretary of State wrote to the BIS Select Committee (BISCom) on 5 November 2012 stating that he was seeking views from the pubs industry on how the self-regulatory deal announced in November 2011 was working and would update the Committee in light of that evidence.
2. We have received 20 responses to Secretary of State's 7 November letter to the industry, from a wide range of organisations and individuals. A summary analysis of the responses is provided at Annex A. A more detailed summary of responses is attached separately for information. We also met with a number of organisations and individuals to discuss their views.
3. Broadly there seems to be consensus that progress has been made to deliver on areas of the self-regulatory approach. There are various views as to whether this progress is satisfactory or sufficient. Annex A provides a summary of evidence on how the self-regulatory approach is working, but for example:
 - The Pubs Independent Conciliation and Advisory Service (PICAS) has taken two cases and has others in the pipeline;
 - Negotiations are underway with some parties on a further, version 6 of the Industry Framework Code;
 - Code re-accreditation processes are being developed;
 - A version of the Pubs Advisory Service has been set up.

4. However, we have been struck by the fragmented nature of this activity and the lack of knowledge and transparency of developments. In addition there is continued lack of engagement between parties and an ongoing entrenchment of views which is clearly a barrier to cooperation and progress. There is a continued impression of ‘collusion’ or lack of independence which affects how some parties view the elements of the self-regulatory approach.
5. It is clear that there continue to be examples of publicans facing real hardship and struggling to make ends meet. [REDACTED s.35.1.a or s.36.2.b.ii]
6. Many respondents took the opportunity to provide views on issues outside of the self-regulatory approach, in particular the beer-tie and rent reviews. These respondents feel that the self-regulatory approach does not address the real problem (i.e. the tie) and [REDACTED s.35.1.a or s.36.2.b.ii].
7. We have set out in Annex B, a range of options for next steps, some of which may be supported by a range of stakeholders.

We would like to discuss these options with you in more detail and will arrange a meeting with your offices

The Beer-Tie

8. Annex C sets out the evidence on the beer tie. [REDACTED s.35.1.a or s.36.2.b.ii]

Other Government Departments

[REDACTED s.35.1.b or s.36.2.a.i]

Copied to:

Offices/individuals included on the copy list

Advice received from:

Finance	SpAds	Press / Comms	Legal	Analysts
N/A	Copied	Copied	Binnie Goh	Chris Jenkins

ANNEX C: The Beer Tie

What is the beer tie?

1. The beer tie refers to a system in which a pub owning company (pubco or brewer) requires its licensees to buy beer and/or other drinks through it, rather than on the open market, usually charging a premium price for the beer.
2. Effectively, this divides the rent paid by the licensee into two parts:
 - The 'dry rent'; the conventional rent, which is fixed.
 - The 'wet rent'; made up of the difference between the price at which the pubco or brewer buys beer and the price at which it sells it. The 'wet rent' is therefore proportional to the amount of beer sold.
3. The tie is used in two ways:
 - For some of the large pubcos, including Punch and Enterprise, it is a profit and risk-sharing mechanism. If the licensee does well (sells more beer) they will pay more rent; conversely, in hard times they will pay less.
 - For the family brewers (e.g. Fullers, Shepherd Neame) as well as some of the pubcos (e.g. Greene King), it is also a means of marketing and distributing their beer. Having a 'safe market' of a few hundred pubs is critical to establishing and maintaining their brand and beer sales.
4. The Beer Tie is considered lawful practice under the EU Block Exemption¹.

What do campaigners want?

5. Those campaigning on the tie want all pubcos with over 500 pubs to be forced to offer a 'mandatory free of tie option with open market rent review'. Some also cite that there should be a principle that 'no tied tenant is worse off than a free of tie tenant'.

Free of tie offer

6. This means each licensee would be able to choose to be either tied or free of tie.
7. It should be noted that some pubcos, including Punch and Enterprise, already offer a free of tie option to all new licensees. Their licensees can choose to be free of tie, but must pay a higher rent for the privilege. Those campaigning have said that this is not a 'genuine free of tie offer' as the additional rent is too much. Punch and Enterprise dispute this.

Open market rent review

8. [REDACTED s.35.1.a or s.36.2.b.ii] Rents must already be calculated in accordance with RICS Guidance and signed off by a RICS qualified surveyor. PIRRS, the rents dispute resolution body, can arbitrate rents that are not calculated according to this process. [REDACTED s.35.1.a or s.36.2.b.ii]

¹ Commission Regulation 330/2010 of 20 April 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices ('the Vertical Restraints Block Exemption')

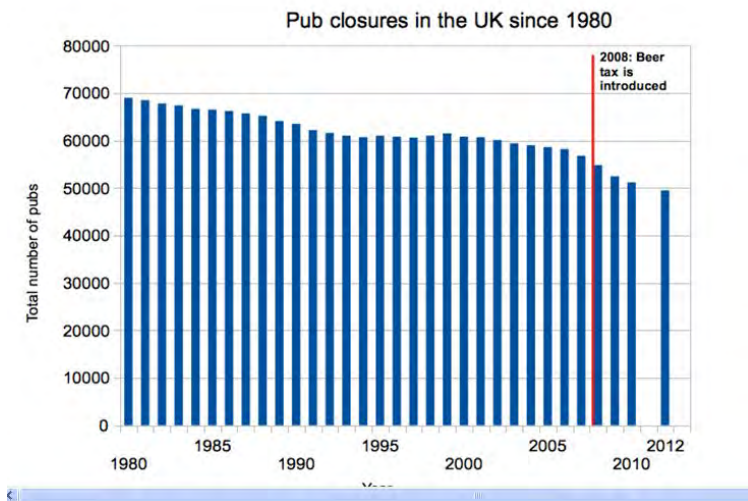
No tied tenant is worse off than a free of tie tenant.

9. [REDACTED s.35.1.a or s.36.2.b.ii] Some campaigners have argued that this must mean simply that ‘free of tie rent’ = ‘dry rent + wet rent’. Wet rent is often calculated by reference to some measure of how much beer an ‘efficient operator’ or comparator would sell. Others recognise that the ‘no worse off principle’ must take into account wider factors such as the amount of capital put into the pub by the licensee (a tenant who has paid £30,000 for a five year lease may pay higher rent than a lessee who has paid £150,000 for a twenty year lease) and countervailing benefits provided by the pub owner (such as free insurance, repairs and so on, which can vary considerably from pubco to pubco).

What evidence is there that it is a problem?

Overall pub numbers in decline

10. Overall pub numbers have been in steady decline since at least 1980. This is widely recognised (including by beer tie campaigners such as CAMRA and the Save the Pubs Group) to be due to a range of factors, including changing cultural habits, increased Government taxation, the rise of low-cost selling at supermarkets and the smoking ban. Some campaigners also argue the tie plays a factor.
11. The graph below was taken from an analysis of the beer duty escalator – that is why it is labelled (it does not imply departmental official emphasis).



12. [REDACTED s.35.1.a or s.36.2.b.ii]

Are tied pubs closing faster?

13. Figures from June 2008 – June 2011 (we do not yet have a breakdown of the 2012 figures), show that the closure rate was lower in tied pubs than in free of tie pubs.

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Time period	Net closures (number)		Net closures (%)	
	Free of tie	Tied	Free of tie	Tied
Dec 08 - Jun 09	-497	-696	-2.384%	-2.221%
Jun 09 - Dec 09	-576	-320	-2.752%	-1.066%
Dec 09 - Dec 10	-709	-518	-3.264%	-1.788%
Dec 10 - June 11	-134	-244	-0.625%	-0.862%
Dec 08 - June 11	-1,916	-1,778	-9.2%	-5.7%

14. These figures are taken from a report by CGA Strategy, an independent consultancy, which was commissioned by CAMRA. CAMRA advise that 'net closure' is the more appropriate statistic to use as it takes into account 'churn' in the large pubcos; if one uses gross closure figures then proportionately even more free of tie pubs are closing.

15. It is also worth noting that over that period considerably more free of tie pubs opened than tied pubs.

The market is competitive

16. The OFT found no evidence that the beer tie results in competition issues that cause harm to consumers. The market is diverse: approximately 40% of pubs are freehold pubs (i.e. free of tie); 10-15% managed pubs and the remaining pubs – tied – are operated by a wide range of national and regional companies, including pubcos and family brewers. The largest operator, Enterprise Inns, has around 6000 pubs (around 12% of the market), which is relatively low compared to large players in many other markets (e.g. groceries).

17. The OFT found that "At a national, regional and local level, the evidence indicates that there is a large number of competing pub outlets owned by different operators and that consumers are benefiting from significant competition and a choice between different pubs. We consider that in such a competitive market, any strategy by a pub company which compromises the competitive position of its lessees would not be sustainable, as this would be expected to result in sales and margin losses for the lessee and, in turn, for the pub company."

Choice of beer is increasing

18. One argument that is sometimes made is that the tie harms smaller breweries. There is no evidence to support this argument. Firstly, the tie is essential to the independent family brewers. Secondly, when considering microbreweries (who do not own pubs), the OFT found that "The total number of breweries in the UK has increased from 500 in 2004 to 725 in 2008 and the market share of 'micro' brewers (those producing less than 60,000 hectolitres of beer per annum) has increased between 2004 and 2008." and that "Large pub companies which own tied pubs appear to be contributing to such trends as they purchase a considerable volume from micro and regional brewers."

The tie is used by a variety of operators

19. The tie is used by a variety of operators, including the family brewers, who are strongly supported by all sides of the industry, including Greg Mulholland, the IPC, CAMRA and the All Party Save the Pubs Group. Many licensees of pubcos also do not appear to object to the tie (the latest independent annual survey – conducted by CGA strategy – showed 7 out of 10 licensees would sign up with their pubco again).

20. [REDACTED s.35.1.a or s.36.2.b.ii]

[REDACTED s.35.1.a or s.36.2.b.ii] 7 out of 10 licensees would sign up again, 3 out of 10 would not (i.e. 5,000-10,000 unhappy publicans). Rents are individually negotiated, albeit according to RICS guidelines, and, as in any commercial negotiations, licensees who negotiate badly may end up paying higher rents. Stakeholders have argued that there are information asymmetries which make the negotiation difficult for the licensee – this is addressed to some extent in Version 5 of the Code and will be tackled further in Version 6, though there are different views as to whether this is sufficient. [REDACTED s.35.1.a or s.36.2.b.ii]

Conclusion

[REDACTED s.35.1.a or s.36.2.b.ii]

Annex A: Analysis of responses

This provides an analysis of the responses received against each of the elements of the self-regulatory approach announced in November 2011 and highlighting other main themes from the responses.

<p>The Industry Framework Code to be made indisputably legally binding, by incorporating the Code by reference into new agreements and via a collateral contract for existing lessees</p>	<ul style="list-style-type: none"> ▪ Version 5 of the Code made binding in contracts at Christmas in 2011. ▪ Some licensee groups disagree that it is legally binding, though all pubcos have said in writing they will be bound by it. ▪ No coordinated communication to tenants about their rights under the code and how the elements of the self-regulatory deal. <ul style="list-style-type: none"> ○ At least one pubco incorporates it in training; others do not seem to. ○ Some licensee groups (e.g. ALMR) actively promote the Code to their members; others who oppose the self-regulatory deal do not or communicate negatively. ▪ Some confusion between lessees as to whether it's the industry code or the company code that is being incorporated. ▪ Ongoing discussions on Version 6 (see below).
<p>A Pub Independent Conciliation Advisory Service (PICAS) to be set up under the umbrella of Pubs Independent Rent Review Scheme (PIRRS). PICAS would provide mediation and arbitration on any matter relating to the Framework or Company Codes and the results would be binding on both parties</p>	<ul style="list-style-type: none"> ▪ PICAS launched March 2012 and operational in June 2012 ▪ Independent panel hears cases, chaired by Rodger Vickers or his deputy, with four other members drawn from pool of lawyers/ accountants/licensed surveyors. <ul style="list-style-type: none"> ○ 2 completed cases (Each finding against pubco, awarding damages and costs) ○ 1 preliminary hearing (no case for PICA action) ○ 1 case hearing due December ○ 2 potential cases January; total 11 'in live folder' ▪ Russell Stone (one of the 2 successful complainants) said "The administration of the PICA service was straightforward and efficiently handled and the communication was clear from the start and up to the panel hearing. The actual hearing [chaired by Rodger Vickers] was professionally undertaken and both parties had enough time to talk through their points and the questioning from the panel afterwards was relevant and fair". ▪ Some respondents have queried PICAS's or Vickers's independence from the BBPA, though there is no evidence of bias. ▪ As with the Code, no concerted effort to inform licensees of their rights.
<p>A three-yearly reaccreditation process for company Codes,</p>	<ul style="list-style-type: none"> • BII have established their Code reaccreditation process (to begin late 2013) and have stated it would take 6 months to get process through.

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<p>administered by BIIBAS through examination of annual compliance reports and spot-checks</p>	
<p>A new Pubs Advisory Service (PAS), which would provide an initial offering of free advice to all prospective and current tenants and lessees</p>	<ul style="list-style-type: none"> • PAS established by independent tenants group. Welcomed by some licensee groups as independent; others criticise it. • It is not clear from the [REDACTED s 40] communications to the SoS that the tenants PAS is offering either a funded or substantive service: their response said “The PAS is in a position to offer good advice from experts in the trade” but went on to say “we can offer little more than a shoulder to cry on whilst they negotiate an exit from the industry.” • BII and FLVA both (separately) intending to set up their own advice services. Only BBPA is aware of the BII proposal; and no others are aware of the FLVA proposal • A number of parties have said that there is room for a number of services in the market, with several suggesting an overseeing governing board to ensure consistency in standards.
<p>A strengthened Framework Code (version 5), with a particular focus on FRI leases. This will bring about immediate improvements in particular in areas such as rent, insurance, Business Development Manager (BDM) training, dilapidations and pre-entry training, combined with a commitment to discuss further improvements with industry partners (version 6).</p>	<ul style="list-style-type: none"> • Version 5 was agreed by the BBPA, BII and FLVA (the same three parties who had agreed Version 4 and previous versions). • Widespread disagreement as to how meaningful the improvements are. • There is a passionately held view that some pubco tenants remain seriously disadvantaged in negotiations with certain pubcos on rental assessments because of lack of transparency of data, in particular, comparative pub performance data. • Some groups, including ALMR, FLVA and GMV are actively negotiating Version 6 of the Code with the BBPA and see real possibilities of further improvements. • Several respondents stated they were aiming to version 6 implemented during 2013. • Other groups, such as the IPC and CAMRA, say they ‘do not agree that the reforms can address the fundamental issues’ and that it ‘will not address the balance of risk and reward’. While IPC had 2 meetings with BBPA earlier this year to discuss the Code, as BBPA said they were unable to address the issue of risk and reward (i.e. the beer-tie) they parties did not engage any further. A meeting is in the pipeline to discuss Version 6 as it stands.

Other issues/ themes raised by respondents

<p>Beer-tie / Pubco debt</p>	<ul style="list-style-type: none"> • Some groups, Greg Mulholland and the All Party Save the Pubs Group, the IPC, CAMRA, Fair Pint and Justice for Licensees do not consider that Codes, PICAS, and advice, even if working well, can address the real issue. They believe the solution that is needed is for all licensees to be offered a free of tie option. • The All Party Save the Pubs Group says: “The crux issue in the sector is that pub owning companies operated on a leased model take more than is reasonable from pub turnover (in BOTH inflated beer prices and rents), making it difficult or impossible for the licensee (the small business) to make a living.” • The discussion on the tie is mixed in with discussions over rents; that pubcos are charging too high rents and taking advantage of their licensees, due to the fact that they operated unsustainable business models and racked up debt. • The BBPA says that rents are directly addressed in Version 5 of the Code (they must be carried out according to RICS guidance) and that if they are not, dispute resolution is available via PICAS and PIRRS. • A number of respondents raised the issue that the RICS guidance is still open to interpretation which causes disputes in itself. This becomes clouded by some arguing that those involved in PIRRS and PICAS and certain RICS surveyors are not genuinely independent given their previous links to the pubcos. • The extent to which this issue is caused by the tie or not is discussed in a separate annex.
<p>Industry Governance board</p>	<ul style="list-style-type: none"> • The ALMR and FLVA are negotiating with the BBPA and BII for an Industry Governance Board (representing both licensees and pubcos) to be set up. This would be similar to the Board that oversees PICAS but would oversee the Code, communication to lessees, PICAS and PIRRS, reaccreditation and more. • This would go further than the self-regulatory deal announced last November but could drive further improvements (in the view of the ALMR and FLVA). • The BBPA nominally accept the principle but negotiations appear to be essentially stalled due to two red-line positions: <ul style="list-style-type: none"> ○ The BBPA refuse to accept anyone on to the governance board who has not signed up to the industry code. ○ The IPC refuse to negotiate substantively unless the issue of the tie is on the table.

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Annex B: [REDACTED s.35.1.a or s.36.2.b.ii]

Analysis of responses to the Secretary of State's letter, 7 November 2012, on self regulation of the Pub Industry Framework and Company Codes

The Secretary of State posed four questions:

- 1) What action has been taken, and is planned, by the governing board of PICAS to promote and maintain awareness among licensees of the availability of mediation and arbitration services in relation to any matter relating to the Framework and Company Codes. Any facts you can share, consistent with commercial confidentiality, of binding decisions already made by PICAS would also be welcome.
- 2) What action has been taken, and is planned, by the large pubcos (those with over 500 pubs) to maintain awareness among licensees of their rights under the code, including of the specific improvements introduced in December 2012 through version 5 of the Industry Framework Code in relation to rents, insurance, dilapidations and training, including pre-entry training; of the legally binding nature of the code; and of licensees' right to binding arbitration. I would be interested to know what further improvements the industry is proposing to include in version 6 of the code, designed to further improve transparency and fairness for tenants and when will these be implemented?
- 3) What progress has the British Institute of Innkeeping (BII) made in preparing for their code re-accreditation role and what is the status of the necessary agreements with the industry on how the re-accreditation process will work?
- 4) What action, if any, is being taken under the leadership of the BII to set up a Pubs Advisory Service for licensees, further to the Pubs Advisory Service already set up under the leadership of Chris Wright and others?

Those who are responded are: Fair Pint Campaign (Stephen Corbett) [REDACTED s 40], Independent Pub Confederation (Simon Clarke), PICAS (Rodger Vickers), PAS (Chris Wright), Russell Stone, GMB Union [REDACTED s 40], Enterprise Inns (Simon Townsend), FLVA (Nigel Williams), Justice for Licensees (Inez Ward), BII [REDACTED s 40], BBPA (Brigid Simmonds), Spirit (Chris Welham), ALMR (Chris Bish), CAMRA (Jonathan Mail), Stephen Corbett (he also wrote in as part of the Fair Pint Campaign, but this contribution has been sent in as an independent), All Party Parliamentary Save the Pub Group, Brighton and Hove Licensees Association [REDACTED s 40], Greg Mulholland MP.

Respondent	Question 1	Question 2	Question 3	Question 4	Other comments
Fair Pint Campaign (Stephen Corbett)	<ul style="list-style-type: none"> The Fair Pint doesn't like the Framework Code. 				<ul style="list-style-type: none"> Wants regulation on pubcos. Claim 80-100% of the profits taken by pubcos. They question Rodger Vickers impartiality. Believe Ed Davey was misled by the BBPA.
[REDACTED s 40]	<ul style="list-style-type: none"> Codes are "window dressing." Pubcos take a large slice of the profit, [REDACTED s 40]. 				
Independent Pub Confederation (Simon Clarke)	<ul style="list-style-type: none"> PICAS a rebranding of earlier BII services, so there has been no increase in the 'awareness' as such. Two cases have been heard by PICAS, and both concluded in favour of the tenant. One tenant 	<ul style="list-style-type: none"> No action to raise awareness of the code has taken place since December 2011. Version 5 already existed, and was not an improvement. Tenants still not given information on justifying rent. 	<ul style="list-style-type: none"> Company codes are not re-accredited when new clauses are added. Framework code is varied too often so is never consistent enough to make it work. 	<ul style="list-style-type: none"> Not aware of any plans by BII to provide a PAS. 	<ul style="list-style-type: none"> Do not agree that the reforms can begin to address the fundamental issues. It should be the higher the beer tie, the lower the rent as a benefit. Pubcos take their share of the profit from tied goods and take some of

Respondent	Question 1	Question 2	Question 3	Question 4	Other comments
	<p>has now left his pub, and the other has his on the market.</p>				<p>the remaining profit as rent thereby ensuring that both beer tie and rent are high.</p> <ul style="list-style-type: none"> • Still confusions over RICS guidance on rents as to whether tied tenant should be worse off. Believe that RICS surveyors have conflict of interest given their links to pubcos. • Pubcos still too slow in providing rent assessment information. • Has an example of a tenant who can't get a rent assessment from Enterprise Inns.
<p>PICAS (Rodger Vickers)</p>	<ul style="list-style-type: none"> • A former circuit judge, Trevor Barber, has been appointed as Vice Chair. • Spoken at a 				

Respondent	Question 1	Question 2	Question 3	Question 4	Other comments
	<p>Tenanted Pub Co summit earlier on in the year to raise awareness.</p> <ul style="list-style-type: none"> • Press releases when Rodger Vickers and Trevor Barber were appointed. • Reviewed the PICAS procedure paper following feedback. • Procedures are in place to guard against members having conflict of interest. 				
<p>PAS [REDACTED s 40] There are four separate emails which have been summarised here.</p>	<ul style="list-style-type: none"> • Offer to PICAS would they consider arbitrating on the proposed tenant code. At present, no final decision has been made (PICAS want their board to examine the issue, and so has been scheduled for discussion on 11 				<ul style="list-style-type: none"> • PAS is utilised by tenants, but it can't offer ongoing advice. • Tied tenant code took 14 days to draw up, and is ready to be submitted to pub companies. PAS are currently waiting to see what Government

Respondent	Question 1	Question 2	Question 3	Question 4	Other comments
	December).				<p>decides to do.</p> <ul style="list-style-type: none"> • Comments that they have had no response from BIS on the road map.
Russell Stone (one of only two cases to be heard by PICAS).	<ul style="list-style-type: none"> • Administration of the PICAS straightforward and communication was clear. • Questions from the panel were fair, relevant and all sides had plenty of time to set out their argument. 				<ul style="list-style-type: none"> • Questions the ability of the industry to self-regulate.
GMB Union [REDACTED s 40].	<ul style="list-style-type: none"> • There has been no concerted effort to notify licensees. • Argues that the PICAS board is biased towards the pubcos. 	<ul style="list-style-type: none"> • There has been no increase in the awareness of pubcos since December 2011. • Concerns, as highlighted by the BII in 2009, that “40% of licensees struggle with literacy, so raises the question of why more has not been done. 	<ul style="list-style-type: none"> • Tenants who have contacted the GMB, do not have faith in the BII as an organisation that will assist tenants. • Questions whether the BII investigate cases correctly or make attempts to resolve issues. 	<ul style="list-style-type: none"> • Can see no evidence that BII has attempted to create PAS. 	<ul style="list-style-type: none"> • Government should address the lack of balance between risk and reward. • In forwarding an email from [REDACTED s 40]

Respondent	Question 1	Question 2	Question 3	Question 4	Other comments
		<ul style="list-style-type: none"> • Asked how minor amendments are covered as accreditation only takes place every 3 years. 			
Enterprise Inns (Simon Townsend)					<ul style="list-style-type: none"> • Surprised that supposed SoS concerns have not been raised with Enterprise before. • Has written to Brian Binley and Greg Mulholland relating to their concerns but has received nothing from either.
FLVA (Nigel Williams)	<ul style="list-style-type: none"> • PIRRS and PICAS have been created, but the Governance Board has not yet been created: claim the BBPA are reluctant to cede governance. 	<ul style="list-style-type: none"> • Development of version 6 has been slow, and there are significant differences between the parties involved. • There are differences with the BBPA over content, and FLVA believe that version 	<ul style="list-style-type: none"> • Company codes of practices are reviewed by BIIBAS. • The process of review are not sufficiently robust or challenging enough. • Codes of practice must be accredited by a governance 	<ul style="list-style-type: none"> • Under PASS, a range of schemes could be developed, and awarded to trade bodies qualified to deliver this service. • Various schemes have been developed by BII, BBPA and Pubcos. • Bidders should be 	<ul style="list-style-type: none"> • BII are being exploited by the BBPA and FLVA believe that BII are being put forward as a quasi-tenants' representative body. • Would welcome contributions from the IPC in relation to development of

Respondent	Question 1	Question 2	Question 3	Question 4	Other comments
		6 will require consultation before it can be implemented.	body.	able to outline their approach to a governance board, but only once the board has specified the nature, scope and objective of PASS.	<p>version 6 of the code.</p> <ul style="list-style-type: none"> • There should be a radical change in the relationship between Pubcos and their tenants. • Consider the way forward to be: <ol style="list-style-type: none"> 1. Establish an overarching governance board, consisting of BBPA, ALMR, FLVA, GMV BII and SLTA. 2. Formation of a working party under a governance board to formulate codes of practice. 3. Governance Board would be able to issue PASS. 4. Governance board would then deliver the final elements of governance.
Justice for Licensees (Inez Ward)	<ul style="list-style-type: none"> • Members are unaware of PICAS. • Concerns over the 	<ul style="list-style-type: none"> • Tenants have made no reference to being kept 	<ul style="list-style-type: none"> • Unaware of any progress. 	<ul style="list-style-type: none"> • PAS seems well supported. 	<ul style="list-style-type: none"> • Rent is still too high, and the RICS guidance is not

Respondent	Question 1	Question 2	Question 3	Question 4	Other comments
	independence of PICAS.	<p>informed.</p> <ul style="list-style-type: none"> • Tenants also don't understand how it can help them, and it's too difficult to understand. 			<p>binding.</p> <ul style="list-style-type: none"> • No sight of version 6 of the code. • PIRRS and PICAS are not properly independent.
BII [REDACTED s 40]		<ul style="list-style-type: none"> • Version 6 of the code is under discussion, and should be completed in six months if there are no substantive changes. • Would expect a seat on the governing body. 		<ul style="list-style-type: none"> • Paper circulated on 27 July 2012 with a proposal for a full advice and mediation service. • Discussion took place with the pubcos and other groups. BBPA decided the order should be: framework code, governing body, pubs advisory service. 	
BBPA (Brigid Simmonds)		<ul style="list-style-type: none"> • Companies had until 31st March 2012 to implement version 5 of the code. • BBPA took forward work with parts of the industry to explore 			

Respondent	Question 1	Question 2	Question 3	Question 4	Other comments
		<p>more sensitive and commercial issues for inclusion in version 6.</p> <ul style="list-style-type: none"> • Version 6 is under discussion with ALMR. Version 6 will provide a code for companies operating tied tenancy agreements in part one and part two a code for companies operating lease agreements. • Rent assessment statements will be provided to all new leases and lessees (based on shadow profit and loss account). It must be prepared by the pub owning company in good faith. Rent assessments must be signed off by a RICS approved valuer. • On insurance, 			

Respondent	Question 1	Question 2	Question 3	Question 4	Other comments
		<p>companies will be required to price-match on any like for like policies.</p> <ul style="list-style-type: none"> • Companies will not be able to apply royalty changes to amusement machines after version 6 comes into force, and such charges will be phased out from existing agreements. • Version 6 requires prospective lessee to be provided with a schedule of conditions: an agreed description of the building. • Need to agree a new corporate governance framework: an independent chair, and organisations that sign up for the IFC will be represented on the board. 			

Respondent	Question 1	Question 2	Question 3	Question 4	Other comments
		<ul style="list-style-type: none"> • Hope to conclude discussions with ALMR on version 6 by the end of the year, with it being implemented in 2013. Timetable and procedures will be established with all partners under the new regulatory governing body. 			
Spirit (Chris Welham)	<ul style="list-style-type: none"> • Code of practice already on website, included at application stage to be a new lessee and will be included in our welcome pack. • They brief a new licensee on all aspects of the code of practice, and the Director of Operations is the final stage of the application process to vet their suitability. • Implemented their own training for 	<ul style="list-style-type: none"> • Trained all Business Development Managers over two days. 			<ul style="list-style-type: none"> • On disagreements, Spirit implemented a formal call-logging system to manage any dispute resolution. • Hired a Communications and Compliance Manager as part of their process to resolve any disagreements internally. • Will update their ways of working following the introduction of the revised code

Respondent	Question 1	Question 2	Question 3	Question 4	Other comments
	new licensees on top of the code requirement.				(which they have scheduled for December 2012).
ALMR (Chris Bish)	<ul style="list-style-type: none"> • In discussions with BBPA, BII and FLVA to address the deficits in the self-regulatory code. • PICAS became fully functioning in June, and heard its first cases over the summer. • It will only deliver its true benefit when more is done to publicise its existence. Otherwise its take-up will remain low. • PICAS will need to be altered to reflect version 6 of the code when it's introduced. 	<ul style="list-style-type: none"> • A code of practice will only have real influence if it's incorporated into any contract. • Pubcos wrote to lessees in December 2011 to inform them that version 5 could be used as a collateral agreement allowing lessees to exercise their rights under it. Pubcos took different approaches: some just notified lessees, others wanted a signed agreement. There was also confusion amongst recipients as to what code was being incorporated (the company code or the industry code). 	<ul style="list-style-type: none"> • Not aware of PAS 		

Respondent	Question 1	Question 2	Question 3	Question 4	Other comments
		<ul style="list-style-type: none"> • ALMR identified two substantive issues. Firstly, collateral agreement was not binding on successive landlords. Even incorporation of version 5 gave very limited protection since it contained very few specific commitments and focussed instead on company codes. Secondly, some commitments were restricted to Fully Repairing and Insuring leases which led to disputes as to this definition. • Discussions with BBPA have focussed on resolving these two issues. • Version 6 will include a standard industry Deed of 			

Respondent	Question 1	Question 2	Question 3	Question 4	Other comments
		<p>variation for existing lessees who wish to incorporate the new code within their lease.</p> <ul style="list-style-type: none"> • Main sticking point is the new regulatory board. 			
CAMRA (Jonathan Mail)	<ul style="list-style-type: none"> • Little evidence to suggest PICAS will deliver the change required. • The level of transparency is low and not much sign of there being an increase in the level of awareness. • PICAS is still unable to take action against Pubcos who take unreasonable percentages of pub profits as the tie. 	<ul style="list-style-type: none"> • BBPA and pubcos have failed on all commitments they promised: <ol style="list-style-type: none"> 1. Potential lessees are not given their pre-training before a substantive discussion about running the pub takes place. 2. Code does not require full justification of the assumptions and assessments in deciding the level of rent/tie. 3. BBPA has not published a national company wholesale price 			<ul style="list-style-type: none"> • Not seen a draft of version 6 but it will not address the balance between risk and reward between pubcos and tenants.

Respondent	Question 1	Question 2	Question 3	Question 4	Other comments
		list to achieve greater transparency.			
Stephen Corbett (he also wrote in as part of the Fair Pint Campaign, but this contribution has been sent in as an independent)					<ul style="list-style-type: none"> • BBPA have not taken forward reform. • OFT looked like it pre-conceived conclusions in its investigation. • Decision makers do not have the power to tackle problems directly and the pubcos hide behind this. • BBPA misled parliament.
All Party Parliamentary Save the Pub Group	<ul style="list-style-type: none"> • PIRRS and PICAS are BBPA sponsored and therefore not independent, and this includes Rodger Vickers. • Those who use PICAS can be forced to be silent by the pubcos. 	<ul style="list-style-type: none"> • The code should have been binding in December 2011, but we are now on version 6. • The code cannot be legally binding unless it's in the contract and can not be binding on non-BBPA members. 			<ul style="list-style-type: none"> • BIS has failed to deliver its June 2011 of being the code on a statutory basis. • BIS Ministers and officials performed a u-turn and implemented BBPA's solution and not a Government

Respondent	Question 1	Question 2	Question 3	Question 4	Other comments
		<ul style="list-style-type: none"> The framework code has not been agreed by the industry. If their solution of allowing licensees to choose between tied rent or lease only, they would not then need accreditation PICAS or PIRRS (but they would still like government to regulate). 			<p>solution.</p> <ul style="list-style-type: none"> BIS has failed to monitor the sector. The solution should be to allow licensees between a tied lease or rent only. Argue that this is not the abolition of the beer tie but merely allowing tenants to choose and to open the market up to competition.
Brighton and Hove Licensees Association [REDACTED s 40]	<ul style="list-style-type: none"> Unaware of any promotion of PICAS, and the current level of awareness. 	<ul style="list-style-type: none"> Not aware of any ongoing action designed to promote awareness. Think that the version 6 changes are largely cosmetic and do not address the key issues of rebalancing risk and reward. 	<ul style="list-style-type: none"> Concerned that neither BII nor BBPA can apply sanctions to pubcos. 	<ul style="list-style-type: none"> Not aware of any progress made by BII. Have concerns about BII being judge, jury and advisory body. 	<ul style="list-style-type: none"> Disappointed at the slow rate of progress. Still does not solve the imbalance between risk and reward.
Greg Mulholland MP	<ul style="list-style-type: none"> Argues that the 	<ul style="list-style-type: none"> 			<ul style="list-style-type: none"> Believes that BIS

Respondent	Question 1	Question 2	Question 3	Question 4	Other comments
	<p>code has not been put in place.</p> <ul style="list-style-type: none"> • The code is not legally binding. • Doubts that BBPA's system of self-regulation has been put in place. • States that the code is "window dressing." 				<p>have asked the wrong questions of the industry.</p> <ul style="list-style-type: none"> • Is concerned that BIS is taking BBPA's statements at face-value. • Argues that BIS should be looking at the beer-tie and pubcos overcharging their tenants.

30 Email from Shepherd Neame

E-mail Message

From: Jonathan Neame [REDACTED - 5 40 2]
To:
Cc: June Mitchell, George Barnes, Nigel Bunting
Sent: 26/10/2011 at 10:50
Received: 26/10/2011 at 10:50
Subject: Fw: SCOFA - Confidential

Attachments: SCOFA.doc
Rents Payable - TO GO WITH SCOFA.xls

Thank you very much for the recent meeting and your subsequent email.

As promised at the meeting I enclose our internal value assessment of the Shepherd Neame SCOFA (Special Commercial or Financial Advantage).

[REDACTED - 5 43 (2)]

We value this benefit in the current market @ per barrel. Although valuation of this type is not an exact science I hope this gives you a very good idea of how we support our tenants.

Our services are evolving the whole time to meet the ever changing market. At present a key drive is to support web site development and online services. We also plan to invest more in the interior design of our tenanted pubs. Last year we carried out external decorations or major repairs, minor capital projects and responded to "call outs". We plan to do more this year and so keep driving the quality of the offer to our consumers.

In this assessment we only value the services. We put no value on the different business risks between freehouse (ie raising capital, taking all risks of ownership etc etc) or a lease or tenancy.

Suffice it to say that the Traditional Brewery Tenancy is the lowest capital cost on entry, the most heavily supported and the most flexible agreement, (since the licensee can issue 6 months notice to quit from Day 1).

In the BiSC enquiry, so far as I am aware, the Select Committee did not take any evidence from a Traditional Brewery tenants or operators such as ourselves, nor I believe did they receive any complaints about the operation of these agreements. As such I feel it would be unreasonable and potentially very damaging for the Family Brewers to be included in any legislation.

I have not copied this to Paul Wells as this is extremely

commercial sensitive and is of course a key way in which we compete. I would be grateful if you respect the confidentiality of this disclosure. Can I assume that you are not obliged to publish such data when announcing your decision ?

I hope this is useful and helps further your understanding of the differences between what we do and Pub Company leases.

If I can be of further assistance please do not hesitate to ask.

Thank you again for setting up the meeting with the Minister on November 3rd.

Kind regards

Jonathan Neame

From: June Mitchell
Sent: Tuesday, October 25, 2011 10:51 AM
To: Jonathan Neame
Subject: FW: SCOFA

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31 SCOFA document



SCOFA

I set out below an approach towards estimating the value of benefits provided to a standard tenant in return for the tenant being tied to purchase products at a price above the open market. The analysis excludes any houses let on leases (including all Maine houses), as they have different repair liabilities and in many cases, different pricing structures. The analogies include all elements of the tie, ie wine, spirits and minerals as well as beer.

Conversion from wine, spirits and minerals to composite barrels has been carried out on a margin equivalence, as this will underpin the incentive scheme. Conversion rates are 21.95 Gallons of Wine to 1 Barrel, 20.71 Gallons of Spirits and 469.54 RTDL. The conversion rate will not affect the free/tied comparison.

I summarise below the elements of the composite barrel comparison:

Category	Conversion	Converted Volume	Free Trade
Own Beer	1:1	[All figures in this	159.2
Foreign Beer	1:1	column REDACTED –	146.6
Wine	22:1	s.43 (2)]	106.0
Spirits	21:1		243.7
Minerals	470:1		92.3
Composite			154.8 – Say £155

The prime comparison is with a hypothetical Free of Tie lessee, for which there is relatively little market evidence, ie Wellington Pub Co and commercial property company leases, eg Grosvenor.

1. Rents

- a. Tied Rents are lower than Free of Tie Rents

Tied Rents tend to be 9-12% turnover

Free Rents tend to be 12-16% turnover (higher in London)

Tied Rents are 30% below Free Rents

[REDACTED – s.43(2)]

Note: Comparison of Shepherd Neame Free/Tied rents attached

- b. Shepherd Neame rents are phased so as to be at a discount to rental value until the final year of the rent agreement. Current discounts (as shown on attached schedule) amount to £ [REDACTED –s.43(2)] ie £ [REDACTED –s.43(2)] per Composite Barrel.

[REDACTED –s.43(2)]

Note: [REDACTED –s.43(2)]

Average “Traditional” Free of Tie Rent in South East is £52,000 per annum

London rents are higher

Source – Fleurets

2. **FRI**

Free of Tie leases are typically held on FRI terms, ie with the Lessee bearing the cost of all repairs, development and building insurance. These costs are borne by Shepherd Neame for tied tenants.

- a. Average cost of building repairs/external redecorations for 2009/2010/2011:

- Cost: £700,000 per annum
- Value: £ [REDACTED –s.43(2)] per Composite Barrel

- b. Average maintenance investment for 2009/2010/2011:

- Cost: £600,000
- Value: £ [REDACTED –s.43(2)] per Composite Barrel

- c. Average maintenance/compliance revenue 2009/2010/2011:

- Cost: £92,000
- Value: £ [REDACTED –s.43(2)] per Composite Barrel

Note: It is proposed to increase spend in this area

- d. Provision of Surveyor’s services
Say 50% establishment cost

- Cost: £165,000
- Value: £ [REDACTED –s.43(2)] per Composite Barrel

- e. Insurance cost for sole trader will be 0.252% of building value (Source RSA)

[REDACTED –s.43(2)]

“Premium” £444,020

Add leasehold insurance £41,000

Total cost saved £485,000

[REDACTED –s.43(2)]

Total Property Benefit £[REDACTED –s.43(2)] – say £[REDACTED –s.43(2)] per Composite Barrel

3. **Discount to Standard Free Trade Price List**

Weighted Average Discount [REDACTED –s.43(2)] per Composite Barrel

Note: I have made no allowance for the proposed incentive scheme

4. **Services**

Shepherd Neame provide a number of services/discounts, which would not be available to solus Free of Tie lessees:

a. **Rating**

Standard cost for rate reduction is 20% of saving

Source – Porters. I suspect others are higher

Net reduction in Rateable Value over life of 2005 Rating List is £538,525

Average poundage is £0.44.42

Total saving £1,196,064, ie £239,213 per annum

Fees saved £47,842 per annum

Value £[REDACTED –s.43(2)] per Composite Barrel

b. **Training**

Discount to standard cost £805

Annual core training programme every five years

Overall value £249,550 – say £50,000 per annum

Value £[REDACTED –s.43(2)] per Composite Barrel

Note: We are proposing to significantly increase investment in training

c. **Licensing Support**

Assume on annual basis

- Change in DPS	£150 x 70	£10,500
- Variation	£1,000 x 25	£25,000
- Payment of Fee	£50 x 310	£15,500
- Reviews	£5,000 x 8	<u>£40,000</u>
		£91,000

Value [REDACTED –s.43(2)] per Composite Barrel

Source – Popplestone Allen

d. **Life Insurance**

Cost circa £11,000

Value £[REDACTED –s.43(2)] per Composite Barrel

e. **Web Site**

The web site provides a fully functional web site for all licensees, at no cost. The cost of establishing a new web site is £5,000 - £8,000 – say £6,000. Assuming an average “life” of five years, this benefit is worth £1,200 per annum for tenants. This equates to £[REDACTED –s.43(2)] per Composite Barrel.

Digital Marketing

Value £[REDACTED –s.43(2)] per Composite Barrel

Web to Print

The value of this benefit is difficult to quantify, but – say – £[REDACTED – s.43(2)] per Composite Barrel.

f. **Marketing**

Brand support specific to Tied Estate
Promotional activity specific to Tied Estate

Total Value say £150,000
Investment £[REDACTED –s.43(2)] per Composite Barrel

Total Value of Services £[REDACTED –s.43(2)] – say £[REDACTED –s.43(2)]

5. **Purchasing**

On basis of £500 per week food trade

Annual saving circa £2,000 per annum, ie circa £600,000 across estate

Purchasing benefits are being significantly increased

We are currently working on:

- Dispensing Gases
- Utility Suppliers
- PHS
- Boilers
- etc, etc

Target value per Composite Barrel £[REDACTED –s.43(2)]

[REDACTED –s.43(2)]

Note: Intangibles:

- Six months notice
- Lower entry cost
- Business Development Managers
- Incentive scheme – can be quantified at year end
- Beer evenings, etc
- Corporate support
- Inventory Loans/Inventory held
- Wine Development Manager
- Parties/awards/gifts

Note: Free House comparison
[REDACTED –s.43(2)]

32 BBPA table

PUB NUMBERS [REDACTED - s.43]			
BBPA Member Name	Leased\ Tenanted Pubs	Managed Pubs	Total pubs
Admiral Taverns	1,210		1,210
Adnams & Co plc	71	3	74
Arkell's Brewery Ltd	91	11	102
Barracuda Group		202	202
Black Sheep Brewery plc		1	1
Brakspear Pub Co (JT Davies)	142		142
Camerons Brewery Limited	61	5	66
Charles Wells	251		251
Daniel Batham & Son Ltd	2	9	11
Daniel Thwaites plc	325	4	329
Elgood & Sons Ltd	40		40
Enterprise Inns Limited	6,426		6,426
Everards Brewery Ltd	172		172
Felinfoel Brewery Co Ltd	84		84
Frederic Robinson Ltd	371	2	373
Fuller Smith & Turner plc	201	164	365
George Bateman & Son	68	1	69
Gray & Sons	50		50
Hall & Woodhouse Ltd	163	57	220
Harvey & Sons Ltd	46		46
Heavitree Brewery plc	80		80
Heineken (Star Pubs)	1,918		1,918
Holden's Brewery Ltd	20		20
Hook Norton Brewery Co Ltd	46		46
Hyde's Brewery Ltd	52	15	67
INTERTAIN		39	39
J C & R H Palmer Ltd	54		54
J W Lees & Co (Brewers)	136	31	167
JD Wetherspoons		approx 850	850
Joseph Holt PLC	24	99	123
Kurnia Intertrade Ltd		4	4
Maclay Inns Ltd		26	26
Marston's	1,660	492	2,152
McMullen & Sons	47	88	135
Mitchells & Butlers	74	1,807	1,881
Mitchells of Lancaster	36	14	50
Punch Taverns	5,080		5,080
Route Organisation	6	4	10
S A Brain & Co	143	118	261
Shepherd Neame Ltd	320	46	366
St Austell Brewery Co Ltd	154	25	179
T&R Theakston Ltd	1		1
Timothy Taylor & Co	20	9	29
Titanic Brewery Co Ltd		5	5
Wadworth & Co	200	42	242
Weston Castle Ltd		22	22
Young & Co's Brewery plc	99	152	251

33 Briefing email

Briefing document

The information in scope is reproduced below

From: [REDACTED - s.40] (CCP)
Sent: 13 February 2013 17:18
To: Swinson MPST
Cc: McLynchy Julie (CCP)
Subject: Pub sub supplementary

[REDACTED - s.40]

As discussed, here's Greg's reply to my questions on the threshold (just received). [REDACTED - s.35 (1) (a) or s.36 (2) (b) (1)]

Of course, what I/we are referring to is all leased/tenanted/franchised pubs. In other words, any sub letting arrangement. There must be a clear legal definition that covers this (rather than focusing on tied/FOT).

[REDACTED - s.35 (1) (a) or s.36 (2) (b) (1)]

This is very important. In terms of pub ownership figures, this very clearly has to refer to all pubs owned by a company, not only how many tied pubs they may have. This is the principle of the Beer Orders and it is notable that a similar situation of market dominance by very large companies, in a different way, has led to the Government to have to intervene again to make the market work – which was the principle of the reforms back then. The point is market share/dominance, not the model of individual pubs and where some companies operate managed and tenanted/leased houses, then the code must apply to them, even if they have fewer than 500 pubs. So the (deliberately) confused talk of ‘only legislating for two companies’ is mistaken and missing the point, that in the end this issue has arisen because the largest companies abused their power and distorted the tied business model.

[REDACTED - s.40] Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET | [REDACTED - s.40]

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BIS: Working together for growth

34 Briefing email

[Note of meeting by BIS officials but not agreed with IPC or BBPA]

From: [REDACTED – s.40] (CCP)
Sent: 07 January 2013 15:40
To: Parly Unit - Others; Swinson MPST; SPAD CABLE MPST
Cc: McLynchy Julie (CCP); [REDACTED – s.40] (CCP); Normand Caroline (CCP); Cable MPST; [REDACTED – s.40] (Communications)
Subject: PROTECT: Pubs: BBPA and IPC feedback

All,

Today and Friday we spoke to BBPA and IPC on a confidential basis about Minister's 'emerging' views. Highlights below:

IPC (Simon Clarke, Secretary of IPC)

- Strongly welcomed the proposals; on a personal level considered it was a significant step forward.
- The 'tied licensee no worse off than a free of tie licensee' absolutely key; combined with open market rent reviews (ensured by Adjudicator) should make a big difference.
- Still thinks a mandatory free-of-tie option should be included as well.
- Some of their members (CAMRA, ALMR) likely to say a significant step forward; others e.g. Justice for Licensees / Fair Pint will still say no good without a free of tie option. Not sure where IPC as a whole will end up; hope it will be constructive but can't guarantee.
- Could go below 500 companies if made a distinction between leases and tenancies (*IM: see below; something to explore in consultation*).
- Welcomed Adjudicator's powers and felt it should have power to fine.

BBPA (Brigid Simmonds, Chief Exec, and Jonathan Neame, Chair) (Jonathan Neame is also Chief Exec of Shepherd Neame, a family brewer)

- Very disappointed, words used included appalling political process; disgraceful treatment of industry by Select Committee and All Party Save the Pubs Group; no evidence to support this.

[REDACTED – s.41 and s.43]

- V6 of the Framework Code almost ready, could be done much more quickly - though they admitted they could not achieve the 'tied licensee no worse off than a free of tie licensee' aspect in it.
- Will try to work with us as much as possible, but very disappointed.
- BBPA press release will major on cost and red tape to industry, the fact that the beer duty is a much bigger burden and challenging the evidence, including about free of tie pubs being more likely to close.

I have tweaked the SoS letter to BISCUM very slightly based on these conversations (notably emphasising the open market rent review and making clear that we're not hitting family brewers) and to pick up the points in this

morning's meetings made about helping small business - **Michael, please ensure this version gets cleared and used.**

I have also attached the Parliamentary briefing currently being provided to MPs for the debate from both sides (NB: this is what they brought to the meeting; it doesn't reflect our announcement).

[REDACTED – s.40]

[REDACTED – s.40] Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET | Direct line: +[REDACTED – s.40]

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35 Briefing email

Briefing document

The information in scope is reproduced below

From: [REDACTED - s.40] (CCP)
Sent: 27 March 2013 15:34
To: Swinson MPST
Cc: [REDACTED - s.40] (CCP); Normand Caroline (CCP); McLynchy Julie (CCP); Cable MPST
Subject: RE: Pubs - update

[REDACTED - s.40] ,

Key points to make are:

- BIS Select Committee has said strongly and repeatedly action is needed in this area to support pubs.
- Action will also be widely welcomed by lobby groups such as CAMRA, Independent Pub Confederation and Association of Licensed Multiple Retailers.

Business costs

- Net cost to business very low - £1.86m a year - compared to a £19bn beer and pub industry.
- This includes direct costs (£900k levy) and indirect compliance costs.
- All costs fall on large companies with over 500 pubs and turnovers of over £50m a year - no costs for small businesses.
- The RPC has validated our IA, including these costs, as fit for purpose. We are explicitly asking in the consultation whether there are any wider impacts that we have not considered - but we cannot determine these further without consulting.

Only if pressed

- If issue of cost to pubcos is raised. Accept it will cost pubcos £100m a year - but this money will be transferred to other businesses - ordinary pubs.

[REDACTED - s.40] | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET | Direct line: [REDACTED - s.40]

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[REDACTED - s.35.1.b or s.36.2.a.i]

36 Briefing email

From: [REDACTED - s.40] (CCP)
Sent: 22 March 2013 15:07
To: Swinson MPST
Cc: McLynchy Julie (CCP); [REDACTED - s.40] (CCP)
Subject: Pubs: Stakeholder comments

[REDACTED - s.40] ,

Just a couple of recent stakeholder comments (both of whom called me) to make the Minister aware of. No action required.

CAMRA

- Very happy with what they understand is the approach that Government is taking, likely to give us very strong support when we publish. Will be positioning their statements (and lobbying) that they fully welcome this initiative and calling on Government to ensure it gets an early bill slot so it can be enacted quickly.

Greene King

- Very unhappy with direction of travel [REDACTED - s.41 and s.43]

[REDACTED - s.40]

[REDACTED - s.40] Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET |
[REDACTED - s.40]

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37 Briefing email

From: [REDACTED - s.40] (CCP)
Sent: 27 March 2013 16:04
To: SPAD Cable MPST
Cc: Cable MPST; Swinson MPST; McLynchy Julie (CCP); Normand Caroline (CCP); [REDACTED - s.40] (CCP)
Subject: Supporting Quotes

[REDACTED - s.40]

[REDACTED - s.35 (1) (b) or s36 (2) (a) (1)] , see supporting quotes from 8 Conservative members who spoke at the 9th January debate on this issue, immediately after SoS had announced that he was going to consult. No members opposed the Government's decision to consult (though one, Andrew Griffiths, who lives in Punch Taverns' constituency, was sceptical but did not outright oppose).

[REDACTED - s.40]

Sir Peter Bottomley (Worthing West, Con): Without getting into party politics, can we agree that to compete effectively, people running a pub must be able to buy their supplies at market price, not a rigged higher price, and they must pay market rents rather than rigged rents that are higher

Heather Wheeler (South Derbyshire) (Con): I congratulate the right hon. Gentleman on yesterday's press releases and the great announcement. We have seen fantastic pubs, such as the Old Talbot in Hilton, going under because of these difficulties with the tie.

Andrew Bingham (High Peak) (Con): I welcome yesterday's announcement, but will the Secretary of State concede that there are other issues where the relationship between the pubco and the tenant is biased one way? [*our consultation addresses these other things*]

Sheryll Murray (South East Cornwall) (Con): The pub industry is exceptionally important to the British economy, contributing around £21 billion to the UK's GDP and supporting about 1 million jobs. I have kept in regular contact with the pub tenants in my constituency, and it is clear that they have struggled. Some pubs have already closed. Part of the reason for [her constituent] surrendering his lease was that the Devon and Cornwall inn was tied to and on lease from one of the national pubcos, which applies to about half of UK pubs.

I congratulate the Government on yesterday's announcement about a new statutory code and an independent adjudicator to investigate disagreements between pubs and their owners...If Mr Ham were still running his pub, he might have been able to stay in business and even perhaps make a profit. In this way, the Government may well be able to save the livelihoods of thousands of people, including constituents of mine, so I would like to say thank you to the Secretary of State.

Andrew Stephenson (Pendle) (Con): warmly welcome yesterday's Government announcement, which will provide great support to those who have campaigned on the issue and give stability for pubs and tenants. It will be good for growth and the pub trade. I also welcome the fact that the Government are focusing just on large pub companies with more than 500 pubs; that is exactly what I argued for in my speech last year.

Mr Mark Spencer (Sherwood) (Con): There are a few things that unite this House, such as national security, respect for the monarch, the bravery of our armed forces, and the great British pint... Sadly, though, Nottinghamshire has not been immune from the pub closures that we have seen across the country, and a number of great local hubs have disappeared from our villages and communities.

Andrew Griffiths (Burton, Con, Chair of the All Party Beer Group): I agree with the hon. Gentleman [Toby Perkins, Lab] that 18 pubs closing a week is too many. He will know, however, that under the previous Labour Government pubs were closing at a rate of 54 a week—four times as many. Will he apologise for the Labour party having let down pubs so badly?

Justin Tomlinson (North Swindon) (Con): Although the number of pub closures has slowed, it is still somewhere in the region of 18 a week, which has to act as a wake-up call for all of us. The Government's decision is a credit to organisations such as CAMRA and the Federation of Small Businesses, and to the countless local residents who have e-mailed all MPs to raise the issue.

[REDACTED - s.40] , Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET | Direct line: [REDACTED - s.40]

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38 Briefing email

Briefing document

The information in scope is reproduced below

From: [REDACTED - s.40] (CCP)
Sent: 26 March 2013 16:47
To: Swinson MPST
Cc: [REDACTED - s.40] (CCP); McLynchy Julie (CCP)
Subject:

[REDACTED - s.40] ,

- BIS Select Committee has said strongly and repeatedly action is needed in this area to support pubs. Action will also be widely welcomed by lobby groups such as CAMRA, Independent Pub Confederation and Association of Licensed Multiple Retailers.
- Do recognise potential unintended consequences for big pubcos. Consultation (Ch. 5) explicitly recognises this and asks for evidence to be provided as to any such consequences - Ministers here will of course take that evidence into account when making any final decision.
- RPC has validated IA as fit for purpose.

[REDACTED - s.40] | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET
| [REDACTED - s.40]

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39 Ministerial briefing

Briefing document.

The information in scope is reproduced below

Backbench Business Committee Debate on Pub Companies 12
January 2011

Facts and Figures

- **Approximately 50,000 Pubs** in the UK (as of September 2012) compared to **70,000 in 1980**.
- **Approximately 35% of pubs are freehold pubs** (i.e. free of tie); **15% are managed** and the remaining **50% are tied pubs**.
- The largest operator, Enterprise Inns, has around **6000 pubs** (around **12%** of the market).
- **18 pubs (net rate)** per week are closing
- Since December 2008 and June 2011:
 - **1916 free-of-tie** pubs have closed compared to **1778 tied pubs** (net closure rate)¹.
 - **Over 1300 pubs** have converted from tied to free-of-tie.
 - **More than three times as many** free-of-tie pubs have opened than tied pubs.
- Punch and Enterprise, the largest pubcos, are each **selling off 400-500 pubs a year**.
- **Over 1000 breweries** now operating in Britain, the **largest number since the 1930s**.

¹ In percentages, this is 9.2% (free-of-tie) to 5.7% (tied). Gross closure rate is even more strongly in favour of tied pubs, but CAMRA argues that net closure rate is more accurate.

- Between 2004 and 2009, the **total volume of beer sales by small brewers increased by 50 per cent**, despite the beer market as a whole shrinking.
- In 2011, **46% of tied tenants** earned less than **£15,000 a year**.
- In 2012, **7 out of 10 licensees** said they would sign up with their pub company again, up from 6 out of 10 in 2011.
- The Pubs Code and Adjudicator likely to apply to all companies with **a tied estate of more than 500 tied pubs**.

Core One-Pagers

What has/hasn't the self regulatory approach achieved?

Positives

- Version 5 of the Industry Framework Code was made binding in contracts at Christmas in 2011.
- The FLVA, ALMR, GMV and BBPA are negotiating Version 6 of the Code, and see opportunities for further improvements.
- PICAS was launched in March 2012, and became operational in June 2012. It has so far heard three cases (two of which found against the pub companies), with further cases pending. One of the successful claimants said:

“The administration of the PICA service was straightforward and efficiently handled...[The actual hearing]was professionally undertaken and both parties had enough time to talk through their points and the questioning from the panel afterwards was relevant and fair”.

Negatives

- Does not appear to have engendered the required culture change.
- Significant numbers of individual publicans are continuing to face serious hardship and difficulties in operating in this industry.
- No co-ordinated communication to tenants about their rights under the Code.

- Unclear whether the Code goes far enough on rents.
- Some groups such as the IPC say the approach has not addressed the core issues of risk and reward.
- Although a new pubs advisory service has been set up by tenants, unclear how substantive a service it provides.
- Several bodies of the industry are negotiating over an Industry Governance Board, but discussions have faltered on two issues: firstly; whether it should be a pre-requisite to have signed up to the Code to sit on the Board; secondly; whether issues relating to the tie should be included in the Code.

Who has Government listened to?

- The Government received 19 responses to its call for evidence, including from:
 - The British Beer and Pub Association and individual pubcos.
 - Groups representing licensees, including the Independent Pubs Confederation, the Association of Licensed Multiple Retailers and the GMB Union.
 - Individual licensees, including one of those who had used PICAS.
 - Groups involved in the self-regulatory approach, such as the British Institute of Innkeeping and the Rodger Vickers of PICAS.
- The Government has considered the information very carefully in making its decision.
- Stakeholders will have a further opportunity to input at the consultation stage.

Only if pressed – ‘Did the Government discuss its response with anyone before announcing it today’.

- Officials discussed the broad details of its decision with representatives of the BBPA and the IPC in advance of announcement.
- This was not to seek agreement – neither party necessarily agrees with every detail of the announcement.
- But it was to ensure that no key issues had been overlooked by Government when making its decision.

Background

Time period	Net closures (number)		Net closures (%)	
	Free of tie	Tied	Free of tie	Tied
Dec 08 - Jun 09	-497	-696	-2.384%	-2.221%
Jun 09 - Dec 09	-576	-320	-2.752%	-1.066%
Dec 09 - Dec 10	-709	-518	-3.264%	-1.788%
Dec 10 - June 11	-134	-244	-0.625%	-0.862%
Dec 08 - June 11	-1,916	-1,778	-9.2%	-5.7%

These figures are taken from a report by CGA Strategy, an independent consultancy, which was commissioned by CAMRA.

CAMRA advise that ‘net closure’ is the more appropriate statistic to use as it takes into account ‘churn’ in the large pubcos; if one uses gross closure figures then proportionately even more free of tie pubs are closing.

40 Ministerial briefing

Briefing document

The information in scope is reproduced below

Facts and Figures

- **Approximately 50,000** Pubs in the UK (as of September 2012) compared to **70,000 in 1980**.
- **Approximately 35% of pubs are freehold pubs** (i.e. free of tie); **15% are managed** and the remaining **50% are tied pubs**.
- The largest operator, Enterprise Inns, has around **6000 pubs (around 12% of the market)**.
- **18 pubs (net rate)** per week are closing
- Since December 2008 and June 2011:
 - **1916 free-of-tie** pubs have closed compared to **1778 tied pubs** (net closure rate)¹.
 - **Over 1300 pubs** have converted from tied to free-of-tie.
 - **More than three times as many** free-of-tie pubs have opened than tied pubs.
- Punch and Enterprise, the largest pubcos, are each **selling off 400-500 pubs a year**.

¹ In percentages, this is 9.2% (free-of-tie) to 5.7% (tied). Gross closure rate is even more strongly in favour of tied pubs, but CAMRA argues that net closure rate is more accurate.

- **Over 1000 breweries** now operating in Britain, the **largest number since the 1930s.**
- Between 2004 and 2009, the **total volume of beer sales by small brewers increased by 50 per cent**, despite the beer market as a whole shrinking.
- In 2011, **46% of tied licensees** earned less than **£15,000 a year** in contrast to only **22% of free of tie licensees.**
- In 2012, **7 out of 10 licensees** said they would sign up with their pub company again, up from 6 out of 10 in 2011.
- The Pubs Code and Adjudicator likely to apply to all companies with **a tied estate of more than 500 tied pubs.**

Core One-Pagers

Evidence supporting Government's decision to act

- There is clear evidence of the need to take action in the pub sector, with **four Select Committee reports** since 2004 recommending change.
- In 2011, **46% of tied tenants** earned less than **£15,000 a year**.
- The Association of Licensed Multiple Retailers (ALMR) 2012 Benchmarking Survey found that, for the first time, **rents in the majority of tied estates were above those in the majority of free of tie estates**.
- We gave the industry the option to self-regulate but they did not deliver significant change – we have been left with no choice but to consult on legislating.
- The Government received 19 responses to its call for evidence from a range of individuals and organisations, which suggested that **individual publicans are continuing to face serious hardship** and difficulties in operating in this industry.

*“Some progress has been made..., **but outstanding fundamental issues remain to be resolved.**”*

Association of Licensed Multiple Retailers, Oct 2012

“A legally binding framework is required to protect lessees and their pubs from the high rents and tied beer prices charged by the big pub companies.”

CAMRA, campaign letter to MPs, January 2013

What has/hasn't the self regulatory approach achieved?

Positives

- Version 5 of the Industry Framework Code was made binding in contracts at Christmas in 2011.
- The FLVA, ALMR, GMV and BBPA are negotiating Version 6 of the Code, and see opportunities for further improvements.
- PICAS was launched in March 2012, and became operational in June 2012. It has so far heard three cases (two of which found against the pub companies), with further cases pending. One of the successful claimants said:
“The administration of the PICA service was straightforward and efficiently handled...[The actual hearing]was professionally undertaken and both parties had enough time to talk through their points and the questioning from the panel afterwards was relevant and fair”.

Negatives

- Does not appear to have engendered the required culture change.
- Significant numbers of individual publicans are continuing to face serious hardship and difficulties in operating in this industry.
- No co-ordinated communication to tenants about their rights under the Code.
- Unclear whether the Code goes far enough on rents.
- Some groups such as the IPC say the approach has not addressed the core issues of risk and reward.
- Although a new pubs advisory service has been set up by tenants, unclear how substantive a service it provides.
- Several bodies of the industry are negotiating over an Industry Governance Board, but discussions have faltered on two issues: firstly; whether it should be a pre-requisite to have signed up to the Code to sit on the Board; secondly; whether issues relating to the tie should be included in the Code.

Summary of Call for Evidence respondents & key points

- We received 19 responses from our call for evidence from a range of individuals and organisations, including those representing:
 - Pubcos;
 - Licensees;
 - Groups involved in the self-regulatory approach.

List of respondents

- Pubcos
 - Simon Townsend, Enterprise Inns
 - Brigid Simmonds, BBPA
 - Chris Welham, Spirit
- Licensees & representatives
 - [REDACTED – s.40] PAS
 - Simon Clarke, Independent Pub

Confederation

Fair Pint Campaign
[REDACTED – s.40] GMB Union
Nigel Williams, FLVA
Inez Ward, Justice for Licensees
Chris Bish, ALMR
Jonathan Mail, CAMRA
Russell Stone (individual licensee – with experience of PICAS)
Stephen Corbett (individual licensee)
All Party Parliamentary Save the Pub Group
Greg Mulholland MP

[REDACTED – s.40] Brighton and Hove
Licensees Association
[REDACTED – s.40]

- Groups involved in the self-regulatory approach.

Rodger Vickers, PICAS

[REDACTED – s.40], British Institute of
Innkeeping

Key points raised:

- No co-ordinated communication to tenants about their rights under the Code.
- Version 6 of the Code not yet agreed.
- Unclear whether the Code goes far enough on rents.
- Continued lack of engagement between parties and a lack of trust and transparency has been a barrier to cooperation and progress.
- In particular discussions have faltered on two issues: firstly; whether it should be a pre-requisite to have signed up to the Code to sit on the Board; secondly; whether issues relating to the tie should be included in the Code.
- Although a new pubs advisory service has been set up by tenants, unclear how substantive a service it provides.

Background to pub closures

Time period	Net closures (number)		Net closures (%)	
	Free of tie	Tied	Free of tie	Tied
Dec 08 - Jun 09	-497	-696	-2.384%	2.221%
Jun 09 - Dec 09	-576	-320	-2.752%	1.066%
Dec 09 - Dec 10	-709	-518	-3.264%	1.788%
Dec 10 - June 11	-134	-244	-0.625%	0.862%
Dec 08 - June 11	-1,916	-1,778	-9.2%	-5.7%

These figures are taken from a report by CGA Strategy, an independent consultancy, which was commissioned by CAMRA.

CAMRA advise that 'net closure' is the more appropriate statistic to use as it takes into account 'churn' in the large pubcos; if one uses gross closure figures then proportionately even more free of tie pubs are closing.

A statement from CAMRA about the most recent figures (year to date to September 2012):

"The figures show that in the year to Sept 2012 exactly the same number of free of tie pubs closed on a net basis as leased and tenanted pubs: 536 in each category. Broadly speaking the BBPA's percentage figures are therefore correct. From our point of view the bigger picture is that the actual number of leased/tenanted pubs has fallen by over 3,000 in the last few years whereas the number of free of tie pubs has remained stable at just above 20,000. These figures give a better indication as to the relative health of the two sectors."

41 Email from Pubs Advisory Service



Blaney Nicholas (CCP)

From: Swinson MPST
Sent: 19 November 2012 18:27
To: Cable MPST; SPAD CABLE MPST; Mansfield Iain (CCP); Swift Jane (CCP); Normand Caroline (BE); CCP)
Cc: Swinson MPST
Subject: FW: Pubs Advisory Service response to BIS

And another email, addressed to the SoS (and copied to Greg Mulholland and Toby Perkins).

From: (MPST MIN)
Sent: 19 November 2012 09:05
To: Swinson MPST
Subject: FW: Pubs Advisory Service response to BIS

Sent to my inbox.

Correspondence Officer | Jo Swinson MP, Minister for Employment Relations and Consumer Affairs | Department for Business, Innovation & Skills | www.bis.gov.uk | Blog: blogs.bis.gov.uk | Twitter: @bisgovuk

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From: Pubs Advisory Service [mailto:]
Sent: 15 November 2012 13:47
To: Swift Jane (CCP); (MPST MIN)
Cc: 'Greg MULHOLLAND'; toby.perkins.mp@parliament.uk
Subject: Pubs Advisory Service response to BIS

Rt Hon Vince Cable MP

Mr Cable I would refer you to following statement in answer to your enquiry on the PAS and the advice we supply.

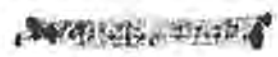
The PAS unlike PICAS & PIRRS is not sponsored and run by pub companies. The PAS is in a position to offer good advice from experts in the trade but this is being undermined by reluctance from Pub Companies to refer or promote this service to any new tenants.

We are however being used heavily by existing tenants who present us with alarming situations; more often than not we can offer no ongoing help to make their business a success because to succeed they need to maximise their profit which under existing unregulated tied agreements is impossible. As a result we can offer little more than a shoulder to cry on whilst they negotiate an exit from the industry.

Underneath is a survey we undertook in the first few weeks of PAS existence, if the BIS would like us to resurrect this survey and perhaps ask some additional questions we would be pleased to discuss how best this could be facilitated

Regards

27/11/2012



PAS admin

PAS survey no1:

Total Started Survey: 45

Total Finished Survey: 45 (100%)

Page: 1

1. Given that the Government rejected statutory legislation are you happy with the complaints system offered by your pub company or brewery?

	answered question		43
	skipped question		2
	Response		Response
	Percent		Count
yes	7.0%	3	
no	93.0%	40	

2. Do you have confidence that any complaint raised with your pub company will dealt with to your satisfaction?

	answered question		44
	skipped question		1
	Response		Response
	Percent		Count
yes	4.5%	2	
no	95.5%	42	

3. Are you aware of the company codes of practice issued by your pub company?

	answered question		44
	skipped question		1
	Response		Response
	Percent		Count
yes	84.1%	37	
no	15.9%	7	

4. Does using a code of practice complaint service that costs £200 upfront put you off from using it, even if you might get your costs repaid?

	answered question		44
	skipped question		1
	Response		Response
	Percent		Count
yes	77.3%	34	
no	22.7%	10	

5. Describe the relationship with your Pub company / Brewery when in contact with them?

	answered question		41
	skipped question		4
	Response		Response
	Percent		Count
Good	4.9%	2	
Satisfactory	14.6%	6	
Poor	80.5%	33	
Extra comments please add here			21

6. Would you like a free independent service to monitor any complaints you wish to make?

	answered question		44
	skipped question		1
	Response		Response
	Percent		Count
yes	97.7%	43	
no	2.3%	1	

7. Would you like a free independent complaints monitor to help with providing template letters and or tracking complaints?

	answered question		43
	skipped question		2
	Response		Response
	Percent		Count
yes	95.3%	41	
no	4.7%	2	

8. How useful would this new service be to you in helping you run you pub?

	answered question		41
	skipped question		4
Extremely useful	70.7%	29	
Very useful	19.5%	8	
Moderately useful	7.3%	3	
Slightly useful	0.0%	0	
Not at all useful	2.4%	1	

42 Briefing email

Briefing document
The information in scope is reproduced below

From: [REDACTED – s.40] (CCP)
Sent: 04 January 2013 10:22
To: Swinson MPST; Cable MPST
Cc: SPAD CABLE MPST; McLynchy Julie (CCP); Kelly Bernadette (MLG CS); Perm Sec (BIS); Normand Caroline (CCP); [REDACTED – s.40]; Jenkins Chris (CCP); [REDACTED – s.40] (CCP); [REDACTED – s.40]; Boughen Aileen (Communications); [REDACTED – s.40] ; Parly Unit - Others

A reminder also that we are having the confidential, official-level meetings with IPC and BBPA today and Monday, to 'test emerging thinking' with the principal actor on each side - we'll feed back the results to Ministers on Monday.

Regards,

43 Briefing email

Briefing document
The information in scope is reproduced below

From: [REDACTED – s.40]

Sent: 18 January 2013 11:09

To: Walch Emily (MPST MIN); Swinson MPST; SPAD CABLE MPST; Cable MPST

Cc: McLynchy Julie (CCP); Normand Caroline (CCP)

Pubco's have worked with SIBA to massively up purchasing from microbreweries,

44 Email from OFT

From: [REDACTED - s.40]
Sent: 12 March 2013 09:42
To: [REDACTED - s.40] (CCP)
Cc: [REDACTED - s.40] (LEGAL B); [REDACTED - s.40] (CCP)
Subject: Protect: policy - February 2013 Pubs Proposed Statutory Code

Dear [REDACTED - s.40]

We wanted to follow up on the conversation between [REDACTED - s.40] and [REDACTED - s.40] recently on the pubs impact assessment.

We have since looked back at some of the responses we received prior to our 2010 report on the split of the divisible balance between the pub company and tied lessee.

The responses we received from pub companies suggests that the mechanical approach envisaged in the IA is not taken in practice. Rather, for each model (tied and FOT), a pub company would observe the divisible balance and take a negotiating position on that basis. For example, if under the FOT model a publican had not paid wet rent, this would be taken into account in the negotiation of the proportion of the divisible balance that should be dry rent, such that overall absolute rent levels would be comparable between tied and FOT lessees. Another way of putting it (as one pub company put it to us) is the higher the discount a tenant receives off beer list prices, the higher the proportion of the divisible balance they may pay in dry rent.

We think that this is consistent with para 7.21 of the RICS report, which states that:

"7.21 Comparability between public houses held on different lease terms and with different supply terms is problematic, particularly between the tied and non-tied sectors. There is nothing within this guidance that should result in rents in one sector being set at any advantage or disadvantage to another. In arriving at a market rental value, it is preferable for analysis to be made of transactions relating to similar properties with similar lease terms. Indeed, the efficiency of the market relies on transparent market evidence."

As we noted previously, this appears to be borne out by the analysis in our 2010 report, where we compared rents paid by tied and free of tie lessees. We found that overall, free of tie lessees appeared to be paying lower dry rents, meaning that on average, the overall difference rent paid by tied and FOT lessees was roughly comparable.

We would also add that it is of concern to us that your impact assessment referred to one element of the analysis in our 2010 report - i.e. the comparison of beer prices paid by tied and free of tie lessees - but it did not refer to the differences in dry rents that we found.

The submissions and data that we received from pub companies contain confidential information so we cannot send them to you in their entirety. But if useful, we could seek the consent of the pub companies in question to send parts of the submissions over to you.

On the basis of the above, it does not seem appropriate that the application of the 'no worse off' principle should mean that the same proportion of the divisible balance is used in calculations for tied and free of tie lessees, which we note will necessarily result in tied dry rents always seeing a downward rental adjustment following any review by the adjudicator.

On a separate point, we have now looked at the draft Code, to see if it would be appropriate to add a clause regarding anti-competitive information-sharing. There didn't appear to be an appropriate place in the draft Code to do this. Rather, we may be able to deal with the point through advocacy with RICS. We will give this point further consideration during the BIS consultation period.

Happy to discuss any of the above

Regards

[REDACTED - s.40]

—Original Message—

From: [REDACTED - s.40]

Sent: 04 March 2013 09:39

To: [REDACTED - s.40] (CCP)'; [REDACTED - s.40]

Cc: [REDACTED - s.40] (LEGAL B)

Subject: RE: February 2013 Pubs Proposed Statutory Code

Dear [REDACTED - s.40]

Thank you for sending this to us. I will take a look today - can you let me know when you will need us to get back to you on this?

Can I also just check that BIS has considered the application of Article 3 of Regulation 1/2003/EC and the single market provisions of the TFEU to the Government's proposals? I know we discussed these briefly some weeks back, but I just wanted to mention again to check you had considered these fully.

[REDACTED - s.40] and [REDACTED - s.40] had a call on Wednesday last week regarding the impact assessment. We will follow up on that later today also.

Regards

[REDACTED - s.40]

—Original Message—

From: [REDACTED - s.40] (CCP)

Sent: 27 February 2013 16:51

To: [REDACTED - s.40]

Cc: [REDACTED - s.40] (LEGAL B)

Subject: February 2013 Pubs Proposed Statutory Code

Dear [REDACTED - s.40] ci [REDACTED - s.40]

As previously discussed, we would be happy for you to add a clause on the subject of no anti-competitive information sharing in the section of rents.

Regards,

[REDACTED - s.40]

—< TRIM Record Information >—

Record Number : D13/167039
Title : February 2013 Pubs Proposed Statutory Code

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The Office of Fair Trading
Fleetbank House, 2-6 Salisbury Square, London EC4Y 8JX Switchboard (020) 7211 8000 Web Site:
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This footnote also confirms that this email message has been swept for the presence of computer viruses.

45 Emails, February-May, 2013

D3/656118

(CCP)

From: McLynchy Julie (CCP)
Sent: 31 May 2013 14:48
To: (CCP)
Subject: FW: PIRRS
Importance: Low
Attachments: Re: Hopefully all settled?

From: (CCP)
Sent: 01 March 2013 08:44
To: (CCP); McLynchy Julie (CCP)
Subject: PIRRS
Importance: Low

Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor,
 1 Victoria Street, SW1H 0ET | Direct line: +44

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From: PhildixonCMBI [mailto:...]
Sent: 01 March 2013 08:35
To:
Subject: Fwd: FYI

This is from yesterday and highlights how PIRRS works-Punch offer to reduce rent from £38,000 to £30,000 Licensee makes final offer of £25K Punch say £27.5 or go to PIRRS and then Pub Co is asked (by myself) are you really going all the way for £2500 a year and they reconsider and agree.

So the fact that the Publican was prepared to spend £1500 has resulted in a situation where he is £12,500 (£2500 x 5) better off.

Statistically its not a completed case but shows how the scheme works.

Phil

NB They are not BII members but we provide the service for all.

I'll get the early train so will be there 1.50 see you later.

 This email was received from the INTERNET.

Communications via the GSi may be automatically logged, monitored and/or recorded for legal purposes.

03/06/2013

██████████ (CCP)

From:
Sent: 28 February 2013 12:47
To:
Subject: Re: Hopefully all settled?

Hi Phil

Punch has just got back to us on Tuesday of this week saying they have agreed to £25k which is what we originally offered, although it is still more than what it should be but we needed to settle for peace of mind and any more hassle. We would just like to say a BIG thank you for all your help very much appreciated and would be possible for you to let pirrs know our situation now or do you have a contact number for them so I can let them know.

Thank you once again

On 27 Feb 2013, at 17:21, wrote:

how are you getting on with the rent?

Phil

This email was received from the INTERNET.

Communications via the GSi may be automatically logged, monitored and/or recorded for legal purposes.

46 Emails, February-March 2013

0131656032

[REDACTED] (CCP)
From: McLynchy Julie (CCP)
Sent: 31 May 2013 14:54
To: [REDACTED] (CCP)
Subject: FW: Pubs: Visiting Tenants

From: [REDACTED] (CCP)
Sent: 05 March 2013 16:06
To: [REDACTED] (Communications)
Cc: McLynchy Julie (CCP); [REDACTED] (CCP); Swinson MPST
Subject: FW: Pubs: Visiting Tenants

Essentially we chose Arkell's as (a) they are in Oxfordshire, where the Minister wants to go and (b) they are a responsible family brewer with (as far as we know) good relationships with their tenants. More details are below.

Details to get in touch with are:

- [REDACTED] - James Arkell, CEO of Arkell's.
- [REDACTED] - James Staughton, chair of the Independent Family Brewers of Britain (trade body).

DEBORAH WIND | Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET | Direct line: +44(0)20 7215 6916

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From: [REDACTED] (CCP)
Sent: 13 February 2013 11:47
To: Swinson MPST
Cc: [REDACTED] (CCP); McLynchy Julie (CCP)
Subject: RE: Pubs: Visiting Tenants

Thank you very much for this. We discussed and agreed that a visit to an Arkell's pub, in Oxfordshire, made most sense. For info some background on Arkell's and a map of their pubs is below.

I've started liaising with the Family Brewers and Arkell's on the basis of the format below and they very much welcome this, recognising that we'll need to confirm final details once we know the Minister's exact dates.

Regards,

Format

- In an Arkell's tenanted pub
- With the tenant, 2-3 other Arkell's tenants, 2-3 other tenants from another relatively local IFBB member and 2-3 lessees from nearby pubs run by one of the national pubcos.

We would prefer the majority of the meeting (c. 45 mins) to be with the Minister, any officials and the tenants alone, so that they feel able to speak freely; however, we would be very happy for James Arkell (or other company representative) to be present for 5-10 mins at the beginning and/or end of the meeting. We are also happy for local media to be invited at the end of the meeting, though not to be present throughout.



Our History

Anyone visiting Arkell's Brewery for the first time could be excused for thinking they have walked straight into a time machine.

The beer is still brewed in much the same way as it was when John Arkell first made it in 1843 and the brewery buildings seem untouched by the passing years. If you speak to any of the staff about the company it is clear that everyone is still as fiercely proud of its local and family roots as John Arkell was himself.

But Arkell's has not achieved its unique position as Swindon's oldest company and one of the oldest traditional breweries still operating in Britain today, simply by standing still.

The company has remained true to the principles of loyalty, quality and tradition set down by its founder 167 years ago, but it has also adapted brilliantly to the changing world around it. Some things never change at Arkell's, but it is the ability to change effectively when change is necessary that has been at the cornerstone of the brewery's success story over the last 167 years.

John Arkell was a remarkable man. Born into a farming family in 1802 in Kempford, South Gloucestershire, he emigrated to the New World in his late twenties and took with him a group of local people who sought a refuge from the tough conditions endured by agricultural folk at that time. It was a brave step.

They arrived in Canada and established the small community of Arkell - which still exists today - but three years later, John returned for love. His fiancée preferred to live in England so he came home to marry and set up home in Stratton St Margaret, near Swindon, where he grew barley on his farm.

Iain Mansfield | Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET | Direct line: +44(0)20 7215 6916 | iain.mansfield@bis.gsi.gov.uk

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From: Swinson MPST
Sent: 13 February 2013 10:04
To: (CCP)
Cc: (CCP); McLynchy Julie (CCP)
Subject: RE: Pubs: Visiting Tenants

Thank

The Minister would like to do a visit - she will be visiting Oxfordshire, Cumbria and Somerset in the next 2-3 months and would like to incorporate a meeting during one of these visits. Details of these trips are yet to be worked through so we have an opportunity to tailor this visit accordingly. Do you have a sense of which area, if any, would be best?

[REDACTED] Private Secretary to Jo Swinson - Minister for Employment Relations and Consumer Affairs | Department for Business, Innovation & Skills | mpst.swinson@bis.gsi.gov.uk | T: +4420 7215 5910 | www.bis.gov.uk <<http://www.bis.gov.uk>>

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From: (CCP)
Sent: 11 February 2013 11:03
To: Swinson MPST
Cc: (CCP); McLynchy Julie (CCP)
Subject: Pubs: Visiting Tenants

[REDACTED]

At the meeting with the Family Brewers on Thursday the Minister expressed interest in meeting representatives of tenants of the family brewers.

Unfortunately there are no organisations that specifically represent tenants (as opposed to lessees) or family brewer tenants. Some family brewer tenants will be members of the BII or possibly also ALMR, who the Minister met at the round table (and are moderates), but there is nothing more than that.

What I suggest could therefore be best is for the Minister to actually visit a tenanted pub to meet the tenant and some of their neighbouring tenants (we could ask the brewer to bring in a few others from nearby). Whilst obviously the tenant(s) will be 'cherry-picked' by the brewer to be a happy one, it would still be an opportunity to hear from some of those who do feel the tie works well for them. This could be done very easily due to the large number of pubs - I would suggest either in London, or potentially in Wiltshire (her husband's constituency) where Arkell's is a prominent and successful family brewer with around 100 pubs. Could also be a good publicity opportunity.

It would be helpful if this could be scheduled soon even if the date was some time in advance, perhaps around Easter.

Grateful if you could let me know your/the Minister's views.

Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET | Direct line: +44(0)20 7

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47 Opinion of Regulatory Policy Committee

Jo Swinson MP
Minister for Employment Relations and Consumer Affairs
Department for Business, Innovation & Skills
1 Victoria Street
London SW1H 0ET

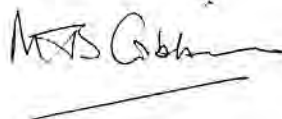
26 March 2013

Dear Minister,


As you will be aware, the Reducing Regulation Committee (RRC) has requested that the Regulatory Policy Committee (RPC) review, and comment on, all impact assessments supporting new regulatory proposals. We understand that RPC opinions will accompany all requests for RRC clearance.

Please find attached the opinion of the RPC in respect of the consultation stage impact assessment produced by your Department for proposals relating to a pubs statutory code and adjudicator.

Yours sincerely,



Michael J S Gibbons OBE
Chairman

 Regulatory Policy Committee	OPINION	
Impact Assessment (IA)	Pubs statutory code and adjudicator	
Lead Department/Agency	Department for Business, Innovation and Skills	
Stage	Consultation	
Origin	Domestic	
IA Number	BIS0395	
Date submitted to RPC	15/2/2013	
RPC Opinion date and reference	26/3/2013	RPC13-BIS-1717
Overall Assessment	AMBER	
<p>The IA is fit for purpose. In order to facilitate an effective consultation, the IA should provide specific analysis and evidence to support the assumptions used to derive the current estimates of both costs and benefits. In addition, the IA should include a more detailed consideration of the potential adverse impacts on pub-owning companies.</p>		
<p>Identification of costs and benefits, and the impacts on small firms, public and third sector organisations, individuals and community groups and reflection of these in the choice of options</p>		
<p><i>Cost and benefit estimates.</i> It is not clear from the IA how a number of estimates presented within the analysis have been derived. In particular, the best estimate for average annual costs of £1.9m for option 2 does not appear to be consistent with the breakdown of the monetised costs shown on page 3.</p>		
<p>In addition, the analysis in the IA draws heavily on estimates and assumptions used for proposals relating to the Groceries Code Adjudicator (GCA). A number of these estimates have simply been re-stated but without any supporting analysis. In order to facilitate an effective consultation, the IA should provide more detail to explain how all estimates and assumptions have been derived. Quantification of other costs and benefits at the final stage would help to explain why Option 2 is preferred to Option 3 when the latter has a higher (ie, marginally less negative) NPV and lower costs to business.</p>		
<p><i>Viability of pub-owning companies.</i> The IA says that, due to the transfer from pub-owning companies to licensees, "... the policy could have an impact on the viability of pub owning companies" (page 12). However, the IA provides very little information regarding the likely significance of any such adverse impacts. In particular, the IA would benefit from explaining what proportion of pub-owning companies' profits is likely to be transferred to licensees. The consultation should be used to strengthen the supporting evidence base so that the likely impacts of the proposal - on pub-owning companies in particular - can be understood better at final stage.</p>		
<p><i>Number of investigations.</i> The IA says it is assumed that, in line with the GCA, the pubs adjudicator would carry out between two and four investigations per year (paragraph 52). However, there is no assessment of whether or not the tied-pub market is sufficiently similar to the groceries market to justify the use of such an</p>		

assumption. The IA should provide a more detailed consideration of how reliable this assumption is likely to be.

Impacts on un-tied pubs. As a result of the proposal, it is expected that there will be a transfer from pub-owning companies to licensees although the exact nature of this transfer is unclear. If this transfer is achieved through a reduction in rents paid by licensees, it appears possible that this could have an impact on competition between tied and un-tied pubs. The IA should consider, in particular, whether the proposal could have any unintended consequences on the trade in un-tied pubs.

Have the necessary burden reductions required by One-in, Two-out been identified and are they robust?

The IA says that the proposal is for a regulatory measure that will impose a net cost to business (an IN). This is consistent with the Better Regulation Framework Manual (paragraph 2.9.10) and provides a reasonable assessment of the likely direction of impacts. The analysis and evidence supporting the estimated EANCB will have to be strengthened so that it can be validated at final stage.

Signed



Michael Gibbons, Chairman

48 BII statistics

(ID)

013/656080

From: (CCP)
Sent: 25 April 2013 10:12
To: Hartshorne Jane (ID)
Subject: BII stat numbers - referred to as 'cases'

Attachments: Picture (Enhanced Metafile)

BII helpline 2010/11/12

2009 ish Summary by Company (Based on 124 cases)

1. Enterprise inns	40%
2. Punch	24%
3. Marstons	8%
4. Freetraders	6%
5. Greene King	6%
6. Wellington	3%
7. Admiral	3%

12% The rest 1-2 calls

Trust Inns 2
Hall & Woodhouse 2
SNPE 2
Fullers 1
Arkells 1
Camerons 1
Charles Wells.1

Enterprise Queries

1. Rent Debt issues	66%
2. Buying Out	12%
3. Rates	8%
4. Agreement renewals	8%
5. COP queries	4%
6. Repairs	2%

Punch

1. Rent Debt issues	63%
2. Buying the pub	15%
3. Buying Out	6%
4. Agreement related	6%
5. Repairs	6%
6. Other inc pricing Cask beers	4%

I found this (2010)

108 cases so far

45 Ents Inns (41%)

23 Punch in decline (21%)

7 Free Trade or small players

6 Admiral

6 Greene King

4 Marstons

3 Wellington

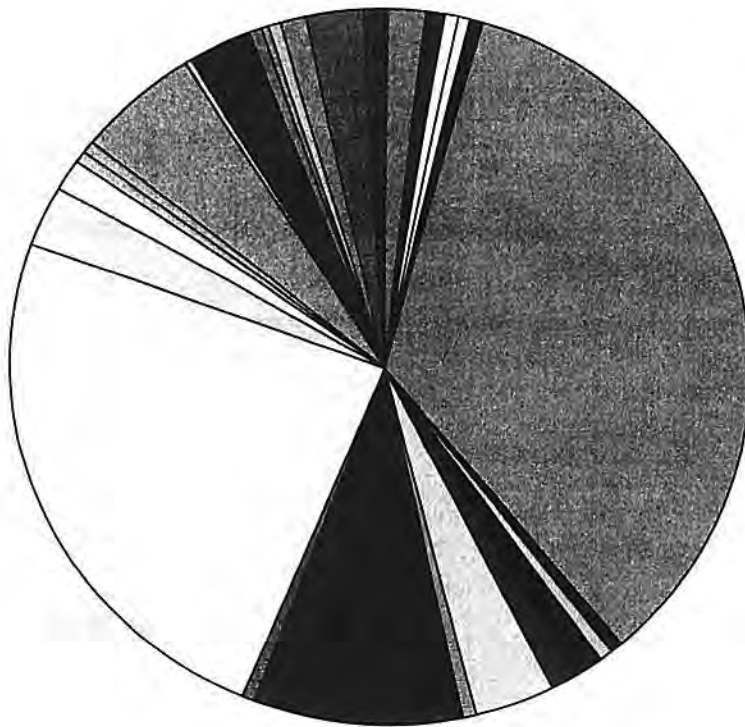
3 SNPC

2 M&B

2 Everards

1 x 6 = Hall & Wood, Sky, Thwaites, Youngs, Fullers, Robinsons.

Number of calls taken per Pub Company



- Admiral
- Barracuda Inns
- Batemans
- Brakspear
- Charles Wells
- Enterprise
- Everards
- Felinfeol
- Freehold Owner
- Fullers
- Greene King
- Hall and Woodhouse
- Hydes Brewery
- Marstons
- Mentor Inn
- Mitchell of Lancaster
- N/A
- Punch Taverns
- Private Landlord
- Pub Folio
- Radia Estates
- S.A. Brains
- Scottish & Newcastle
- Shepherd Neame
- Spirit
- Thornbridge
- Trust Inns
- Urbanicity
- Wadsworth
- Wellington Inns
- Youngs

2012

Pub Company	Number of Calls Recorded
Admiral	3
Barracuda Inns	2
Batemans	1
Brakspears	1
Charles Wells	1
Enterprise Inns	67
Everards	1
Felinfeol	1
Freehold owner	3
Fullers	2
Greene King	7
Hall and Woodhouse	1
Hydes Brewery	2
Marstons	14
Mentor Inn	1
Mitchell of Lancaster	1
Not Yet In Pub	1
Punch Taverns	47
Private Landlord	5
Pub Folio	3
Radia Estates	1
S.A. Brains	1

Scottish & Newcastle	10
Shepherd Neame	1
Spirit	5
Thornbridge	1
Trust Inns	1
Urbanicity	1
Wadworth	2
Wellington Inns	5
Youngs	2
Total	194

| Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET | Direct line: +44(0)20 7034 7000

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49 SIBA Direct Delivery Scheme



SOCIETY OF INDEPENDENT BREWERS (SIBA)

DIRECT DELIVERY SCHEME (DDS)



A summary of the scheme and how to use it

Introduction

SIBA is a trade association representing over 460 local brewers in the UK and full details of the organisation can be found at www.siba.co.uk

SIBA has established a commercial arm called SIBA DDS – a wholly-owned subsidiary operating without profit to ensure pub companies receive the best possible choice of ales at the lowest possible prices, delivered in the freshest, most cost effective and environmentally friendly way.

What does SIBA DDS do?

SIBA DDS acts as a facilitator, co-ordinating the flow of orders, deliveries and invoices between around 450 DDS brewers, over 2000 pubs around the country and a small number of pub company head offices.

SIBA DDS receives orders, either from the pub company or direct from the pub, and distributes them immediately to DDS member brewers all over the country.

Brewers deliver the products according to the SIBA Delivery Charter (copy attached).

SIBA DDS reports on all deliveries made, and provides consolidated invoices, to the pub company head office which will then produce any appropriate documentation for the individual pub.

How do I order?

[Co Name] pubs will use the SIBA DDS telesales centre to place their orders, with licensees receiving weekly telesales calls on pre-agreed days.

In addition, messages can be left on 01765 640441, or (better still!) sent via e-mail to atm@sibaatm.co.uk

How do I get my delivery?

The SIBA Delivery Charter is a statement of intent by all brewers and a copy is attached.

Deliveries will be made on pre-agreed days, but all deliveries should be made within five working days of the order.

Any order not delivered within this period should be notified to the SIBA DDS telesales centre, where it will be cancelled and a new order raised.

Can I speak to the brewer directly?

Communication between [Co Name] licensees and brewers is encouraged, and a list of brewer telephone numbers is attached for information.



SOCIETY OF INDEPENDENT BREWERS (SIBA)



DIRECT DELIVERY SCHEME (DDS)

The SIBA DDS brewer will always seek to provide the best service to the [Co Name] licensee and should be readily available by telephone to arrange delivery times, for example.

However, please note that orders and non-SIBA DDS documentation must NEVER be exchanged directly with the brewer, who will be subject to serious sanctions (as stated in the Delivery Charter) if the rules on non-authorized contact are broken.

If a [Co Name] licensee has any problem in resolving with the brewer the delivery of orders, he or she should contact the SIBA DDS telesales centre immediately.

[Co Name] licensees will receive monthly, by post, a full list of brands available to your outlet – the initial list is attached.

What about pump clips?

DDS brewers should supply a pump clip with each new ale delivered to a [Co Name] outlet, and additional pump clips can be requested either at the time of placing an order or direct from the brewer.

Promotional items such as beer mats, glasses, bar towels and posters may also be available and should be requested direct from the brewers concerned – they may even arrange brewery visits!

What if I have quality issues?

If, when first placed on dispense, any ale from a DDS brewer does not meet your quality expectations, please contact the SIBA DDS telesales centre on 01765 640441 or via e-mail at atm@sibaatm.co.uk

They will arrange for the brewer to respond, and where necessary, replace the product.

What if a local ale or brewer doesn't appear on my list?

SIBA DDS brewers are made available to [Co Name] outlets, subject to authorisation by the [Co Name] head office, based on their postcode delivery areas.

Any request for an ale or brewer to be made available should first be addressed to the SIBA DDS telesales centre, who will verify that the request can be met, and seek appropriate authorisation from the [Co Name] head office.

Where can I get more information about SIBA DDS?

For further general information, please visit our website at www.siba.co.uk/dds

Any specific enquiries should be addressed to the SIBA DDS telesales centre on 01765 640441 or via e-mail to atm@sibaatm.co.uk

50 BBPA Parliamentary briefing

Opposition debate on Statutory Code of Practice for Pub Companies

Wednesday 9th January 2013 (Half Day)

Summary

- The pub industry has made good progress on self regulation and therefore rejects calls for costly red tape and government interference in contractual discussions.
- Two OFT investigations have concluded that there is no consumer detriment resulting from the tie.
- Free of tie options are available from all the major pub companies, but such options can only be offered freely by companies; a collective agreement would be contrary to competition law
- The industry has responded to external concerns with a much-improved regulatory framework for pubs.
- Version 5 of the Industry Framework Code is legally enforceable and negotiations on Version 6 of the code are well-advanced.
- A new Pub Independent Conciliation and Arbitration Service (PICA-Service) has been established where tenant's and lessee's complaints are being dealt with at low cost, without costly recourse to lengthy Court action.
- The industry is applying rent reductions to lend additional support to tenants and lessees struggling in these difficult economic times.
- The most recent data on pub closures reveal that independent pubs are closing at a faster rate than tied pubs – reflecting the additional support pub companies and brewers provide to tenants and lessees.

Text of the motion

Statutory Code of Practice for Pub Companies

That this House notes the motion on pub companies passed by this House on 12 January 2012; recognises that a wide body of experts share the view that only a statutory code of practice which includes a free-of-tie option with an open market rent review and an independent adjudicator will resolve the contractual problems between the pub companies and their lessees; and calls on the Government to bring forward a timetable which will lead to that statutory code being enshrined in law as soon as is practicably possible and before the end of 2013 at the very latest.

Background

The positive case for the tie

The Government has accepted that there will always be a place for tied pubs as a low cost means of entry for self-employed pub entrepreneurs and we recognise that would-be and existing licensees need support and a clear understanding of what it takes to run a pub.

The tie – whether you own a brewery, or have central buying powers as a pub company- is a key component of the tied pubco model that benefits both companies and tenants. The European Block Exemption - in recognizing the legitimacy of tied arrangements - acknowledges the existence of countervailing benefits, which are clearly demonstrated in the level of rent reductions granted by individual companies. These are complemented by

the ability of pub companies to offer tenants and lessees central services. These include rating advice, free buying clubs, tenant's training, cellar services, marketing and point of sale packages, mystery shopping programmes, or reduced contents insurance. In the last year the range of services available to tenants and lessees has grown. From fire risk and health and safety assessments, gas boiler certification, to free Wi-Fi and website assistance.

In the Government's Response to the BIS Select Committee Report in November 2011, paragraph 16 reads as follows: *"Government should not intervene in setting the terms of commercial, contractual relationships, where these are fully justified by law and have been found by the Office of Fair Trading to be raising no competition issues that significantly affect consumers. Fundamentally, whether or not a lease or tenancy includes a tie is a commercial decision on the part of both parties"*.

There are an increasing number of independent pubs which can be bought on the open market. Tied houses still provide, however, an attractive low cost entry into running your own business and require considerably less capital and investment. It is essential that potential lessees have the business skills to run a pub in a very difficult economic environment. The pre-entry training which is an important part of the Industry Framework Code provides an important check on these skills before potential licensees take the decision to enter the industry

Action to Improve the Regulatory Framework for Pubs

The BBPA welcomes the opportunity to highlight the significant progress made by our members and the wider industry to enhance and improve the operation of our framework code of practice. These extensive reforms reflect the industry's own commitment to review and improve its regulations and procedures.

Key measures currently being implemented are set out below.

- In January 2012, Version 5 of the Industry Framework Code was brought into force and its provisions were confirmed as being legally enforceable. This means that a tenant or lessee can complain that a pub company has not met the standards required by the Industry Framework Code and hold a company to account in a court of law.
- As requested by BIS Ministers, the industry established the Pub Independent Conciliation and Arbitration Service (PICA-Service), where all complaints can be dealt with at a low cost, without recourse to the Courts.
- By 31st March 2012, Individual pub companies had translated Version 5 of the Industry Framework Code into their own individual company codes.

Progress since Version 5

The BBPA was asked to consult with industry partners to explore the more sensitive and commercial issues for inclusion in Version 6 of the Industry Framework Code. Working with a small group of Chief Executives of five companies who operate leases, we have met with a range of partners, including the Independent Pub Confederation (IPC) and some of its individual members to take this forward. These discussions are almost complete and include all the specific subjects covered by the Government in their response to the last Select Committee Report. In summary;

- **Transparency:** companies must be transparent about their terms of business and other dealings. For companies who operate more than 100 leases, they must publish an annual statement of compliance which is externally audited.
- **Information:** Companies must respond to all reasonable requests for information and in particular if they are using information for the determination of rents, information should not be unreasonably withheld from lessees, subject to confidentiality agreements.
- **Pub Sales:** Version 6 will bind anyone to whom the pub is sold (if it remains tied), to the Industry Framework Code.
- **Insurance:** more clarity is given on price matching which allows a lessee to seek a comparable quotation. If the pub company provides insurance, the charge will be shown clearly and separately in the rent assessment and shadow profit and loss account.
- **Amusement Machines:** A major change is that income from Amusement With Prizes (AWP) machines can only be shared once and may not be included in the rent assessment statement of 'divisible balance'. Royalty charges cannot be included in new agreements and will be phased out of existing agreements. Any charges must be explained and justified.
- **Flow Monitoring Equipment:** Additional evidence must be provided, other than flow monitoring evidence, before any enforcement action is taken against purchasing obligations.
- **Schedule of Conditions:** landlords must provide prospective lessees with an agreed schedule of conditions when they take on the pub. This must draw attention to specific problems and clarify what if any, remedial work is required.
- **Assignments:** The assignment of leases to a third party is problematical in the current economic climate and like domestic property, the value leases has fallen. As a result some pub lessees are in negative equity for the value of their lease. After some considerable discussion, lessee obligations have been removed from the Industry Framework Code, but will be covered, as now, in the individual lease, or individual company code. There was real concern from some lessees that the lessee obligation in the Industry Framework Code would discourage them from bringing the Code into force: this has been accepted by pub landlords.
- **Shadow P & L:** Version 6 provides a common format for the Shadow P & L and rent assessments. This will help lessees compare the offers of individual companies and provide greater transparency.

Balance of Risk and Reward

Some would argue that the changes to the Industry Framework Code have not altered the balance or risk and reward. BBPA disagrees with this view. The changes particularly in Version 6, deal with many commercial issues, equipping the tenant with all the information and advice he or she needs to negotiate transparent terms that are acceptable to him or her. It is already resulting in lower rents and higher discounts.

Rents are still coming down. For one pub company, average rents per pub are £2,200 less in 2012 than they were in 2010. For another, evidence shows that in the last year average rents have fallen by 6.3 per cent, whilst at the same time discounts on beer supplies to publicans have increased by 8.4 per cent. Even with rents that are linked to RPI, many have a self-imposed cap of 3 per cent which is of course less than inflation in the past year. All companies apply rent reductions on a case by case basis to lend additional support to their tenants or lessees.

Recent data from one member company has shown that the Government's tax take (including VAT, duty, business rates, employment and company taxes) has grown 19 per cent in the past year. VAT and duty alone are up 23 per cent.

PICA-Service

The BBPA was instrumental in setting up the PICA-Service. As the letter from the Secretary of State to the Select Committee acknowledges, the PICA-Service provides low-cost arbitration sitting alongside the Pub Independent Rent Review Service which provides a low cost rent review resolution service. PICA-Service has now heard three cases and the hearings are acknowledged to be professionally undertaken and both parties said they had enough time to talk through their points and the questioning from the panel afterwards was relevant and fair.

Through PICA-Service any licensee who is unhappy with the relationship with their landlord now has easier access to a low cost independent complaints review service than in any other commercial sector.

For further information

David Wilson
Director of Public Affairs
dwilson@beerandpub.com
020 7627 9151

Gareth Barrett
Public Affairs Manager
gbarrett@beerandpub.com
020 7627 9154

Q & A

Question: Some lessees are claiming that the Association of Licensed Multiple Retailers (ALMR) survey shows that rents for tied houses have increased in the past year.

ALMR Benchmarking Survey: A French banking agent suggested that ALMR data showed an increase in rents for tied pubs. He has since acknowledged that he misread it. In the report itself, there is an acknowledgement that the data is based on a smaller sample than the main survey and should be used with caution.

Question: The Secretary of State claims that IPC have not been involved in discussion on Version 6 of the code because they disagreed as to whether the question of a free of tie option should be included in the discussion.

IPC: Free of tie options are available from all the major pub companies, but such options can only be offered freely by companies; a collective agreement would be contrary to competition law. IPC have had two meetings with the BBPA and we await their written comments on Version 6 of the Code which has been shared with them before this Version is finalised. The BBPA has been clear that the Industry Framework Code cannot make changes to individual contracts negotiated between pub company and lessee.

Question: Version 5 of the Code requires that rents must be set in accordance with RICS Guidance, but some respondents believe the guidance is open to interpretation.

RICS Guidance: Royal Institution of Chartered Surveyors (RICS) guidance was put together by an expert group of chartered surveyors which included those working for pub companies and those working for tenants and lessees. If it is not being followed, there is a clear pathway of complaint which can be lodged with the Royal Institute of Chartered Surveyors.

Question: The Secretary of State's letter suggests that the new Board of Governance (which would oversee the self-regulatory structure) requires those who sit on it to have signed up to the Code.

Board of Governance: The Board of Governance is being discussed with the current Pubs Independent Rent Review Scheme (PIRRS) Board, whose members include BBPA, ALMR; the Federation of Licensed Victuallers Associations (FLVA), the British Institute of Innkeeping (BII) and the Guild of Master Victuallers. These are both company and lessee representatives. At its most recent meeting it was agreed that there would be no requirement to sign up to the Industry Framework Code to be a member of the new Board. The new Board will also have the ability to discuss a wide range of issues which are much wider than the Industry Framework Code.

Question: The Secretary of State suggests that a range of consultancy services from the tenants' group to BII and FLVA might be a way forward.

Pub Advisory Service: BII already offer a range of advisory services to their members and beyond. There is no reason why there should not be a range of consultancy services available for pubs from a range of organizations.

Question Should the product-tie issues and free-of-tie option with an open market rent review be addressed?

Free of Tie with an Open market Rent Review: BBPA is quite clear that the Tie is lawful under European Law. Primary legislation would be required to remove the tie which would fundamentally alter the pub market in the UK. It can be argued that the Beer Orders in 1989 had unintended consequences. BBPA believe very strongly that Government intervention would be unhelpful, illogical and decimate the British pub market still further. Since the beer duty escalator was introduced, 5,800 pubs have closed. While weekly closure figures reduced from 52 a week to 12 a week, they have recently risen to 18 a week. Government taxation in a hugely difficult economic market is clearly to blame for pub closures. Decreasing incomes and cultural change have also played their part and it is only the most entrepreneurial retailers, whether they run shops, restaurants or pubs, who can survive in this economic climate.

An open market rent review is a misnomer. Pubs are individual to their location, customers and communities or visitor economy. Comparing tied pubs with free of tie pubs where the owner is investing their own capital with pubs tied to breweries or pub companies is hugely complicated.

At the end of the day, data is clear, more independent pubs are closing than tied pubs. Independent pubs have no one between themselves and their bank. Like the myriad of small shops closing, bank lending is problematic and uncertain. Removing the tie would not only threaten the closure of breweries, it would close many more pubs too. Pubs are the third most important reason for overseas visitors to come to the UK. Not every pub in the UK can survive and many are just in the wrong place and if customers do not use them, they will close. The BBPA supports the provisions of the Localism Act which allow local communities the right to bid for local pubs as they are put up for sale.

The truth about pub closures

In its response to the Select Committee, the Government acknowledges that available data on pub closures does not show that the tied model has resulted in higher levels of pub closures than in other parts of the trade. The most recent CGA pub closure survey data provided to CAMRA reveals that there were 1499 closures of independent pubs in the year to September 2012 (a reduction of 2.5 per cent) while there were only 898 closures of tenanted and leased pubs (a reduction of 1.9 per cent). The data also reveals a growing number of openings of independent pubs (963) compared to non managed (362) in the last twelve months – a reflection of the dynamism of the pub market.

Similarly the two OFT reports on the subject found no consumer detriment of the Tie. There is a large and expanding range of beers available to ties tenants/lessees to offer to their customers. A major national pub company has over 100 cask ales alone available to its tenants and lessees, a selection which is constantly changing. Pub companies offer a wide range of beers from across the country showcasing a range of breweries – both large and small.

While over one million jobs depend on the beer and pub trade, we believe that a range of factors are holding back the sector.

Our members account for 96 per cent of the beer brewed in the UK and own almost half of Britain's 50,000 pubs. The pub sector contributes over £19 billion to the economy and employs in the region of 600,000 people. Over 85 per cent of pubs (i.e. nearly 40,000 outlets) are small businesses which are independently managed or run by self-employed licensees. The provision of food has become increasingly important to pub businesses over the last decade, and the pub food market is currently estimated to be worth in the region of £6 billion per annum.

Beer duty has risen by 42 per cent since March 2008, and current plans for above-inflation tax increases in the Budget are unsustainable. Most alcohol – 70 per cent - is now bought in supermarkets and off licences, with only 30 per cent being bought in on-licensed premises. In community pubs, however, 68 per cent of the alcohol sold is beer, and so this higher taxation continues to have a major impact.

Pubs have also faced a raft of new legislation in recent years. In addition to the new licensing regime introduced in 2005, gambling laws changed in 2007 and the ban on smoking in public places also came into effect in the same year. The Licensing Act 2003 has been subject to further "ad hoc" changes introduced via separate legislation before it had time to bed down. As pubs are already highly regulated businesses, absorbing the cost and social impact of new legal provisions, higher beer duty and VAT, together with the downturn in the economy as a whole, has meant difficult trading conditions over the last few years.

Despite this, the sector continues to invest and create jobs. With Government support, we could create even more employment opportunities, particularly for young people. We need policies that will support pubs by alleviating the burden of regulation and taxation, recognising their vital role in local communities and their role in providing the route-to-market for beer and the great British pint. This could include reduced VAT rates for pubs, additional help on business rates, grants for diversification to incorporate retail, post offices, Tourism Information Offices and other services. Pubs are at the centre of their local community. They need policies and support to enhance their role in society not more Government red tape and higher beer taxation.

British Beer & Pub Association
January 2013

51 Briefing email

Briefing document

The information in scope is reproduced below

From: [REDACTED - s.40] (CCP)
Sent: 22 March 2013 17:17
To: Swinson MPST
Cc: [REDACTED - s.40] (CCP)
Subject: Another pubs tweak

[REDACTED - s.40] ,

I've had some concern from the IPC that some tenants/consumers may not fully understand what a free of tie option means and has asked if we can be really clear.

52 Fair Pint Campaign briefing note

BRIEFING NOTE FOR 9TH JANUARY 2012/3.

REGULATION OF THE PUB INDUSTRY AND FRAMEWORK AND COMPANY CODES

Following the BIS Department consideration of the self regulatory package implementation, in December 2012, Vince Cable wrote to the participants who submitted evidence and confirmed that, in his opinion, whilst steps have been made to progress reform, the changes are not as far reaching as he would have liked and do not appear to have engendered the 'culture change' needed.

It is reassuring that Dr Cable identifies that the codes, in their current form, only offer the potential to resolve limited issues in the pub sector. The central issue, and main stumbling block to progress, '*rebalancing risk and reward*' remains absent from the self regulatory process. Indeed the BBPA has stated that, if this requires code provisions which alter the commercial terms of the agreements between pub owning companies and their lessees and tenants, then this is not an issue within its remit to implement upon its members.

The problem is now, and always has been, that there is no mechanism in place to restrain pub owning companies from abusing their dominant position and taking more than a fair share of a pubs' profits, leaving lessees and tenants exposed to the whims of the pub owning companies. 'Tied' agreements allow manipulation by those of a mind to take unfair advantage of the opportunities presented and to the detriment of lessees and tenants.

The idea of relying on corporate goodwill associated with culture change has long been shown to produce little if any significant results. It is not easy to point to any form of self-regulation that has been successful. Enforceable, clear and meaningful provisions need to be introduced through a series of alternative mechanisms appropriate for the provisions in question. Industry and company codes may be capable of variation to encompass some of the more peripheral and less significant issues but not the fundamental problems that have hounded the pub industry.

Dr Cable confirms that he has been considering possible options available and he will write to the Select Committee with an update in January outlining how the Government intend to proceed to take the matter of pub regulation forward.

OPTIONS

The pub owning companies have no appetite to offer an enforceable code, with adequate provisions, and their representatives, the British Beer and Pub Association, have confirmed that it is not in their gift to require provisions upon their members.

As has been demonstrated by the last four Select Committee Inquiries, over the past 8 years, and indeed the Government's own pre-Christmas consideration, the industry cannot rely on discretionary measures by some of the pub owning companies. In view of the latter, the 'culture change' envisaged by Dr Cable offers little reassurance in the longer term to an industry desperately in need of material and meaningful reforms capable of effective enforcement.

There has been no indication of the options under consideration at this time, however, there are a number of possibilities that may be under consideration.

STATUTORY CODE

Select Committees under the Chairmanship of Peter Luff and Adrian Bailey recommended that the dispute over the tie could be ended easily: **every lessee could be offered the choice of being free or being tied. The Committee's recommended each and every existing lessee should, in a phased programme, be offered this choice.**

Although the Committee stated a voluntary agreement to be preferable, it was always doubted that the pubcos would respond effectively to such an approach. They therefore recommended that the Business Innovations and Skills Department considers how best to achieve this end and that it opens an urgent consultation into the principle and phasing of this proposal. **BISCOM stated "The status quo is not an option."**

As has been apparent in the period between the 2008 Select Committee and December 2012 a voluntary agreement to implement a free of tie choice is most unlikely to be delivered voluntarily by the pub owning companies. It is for the Government to now consider how best this option could be implemented through alternative means.

The whole issue of the 'tie', and relationship between pub owning companies and their lessees and tenants, has been considered in detail by successive Select Committee Inquiries. A statutory regulation on the one particular issue of a free of tie option may be possible without further consultation. However, it may also be that Government is contemplating referral to a competition authority.

OFFICE OF FAIR TRADING

The Business and Enterprise Select Committee 2008 stated :

"The OFT has declined to act in the past; we recommend that the Secretary of State refer the matter to the Competition Commission for urgent investigation by a body which has no vested interest in defending its earlier position."

At the oral evidence, taken before the Business, Innovation and Skills Committee on Tuesday 6 December 2011, Ed Davey, the then Under-Secretary of BIS, in answer to Ann McKechnie MP's question, confirmed the remit of the OFT does not extend to considering contractual terms between corporate entities. The issue also relates to unfair contractual terms, not specifically the issue of consumers' interest.

In view of the above, the OFT have openly stated, and it was accepted by Ed Davey, that it is not within their remit to consider the issues in respect of the relationship between pub owning companies and their lessees and tenants. It would seem the only independent competition authority able to consider the specific issue is the Competition Commission.

COMPETITION COMMISSION INVESTIGATION

In their follow up report in 2009, the Business and Enterprise Committee (BEC) recommend that the OFT be invited to make a reference to the Competition Commission to investigate the adverse impact of supply ties in the public house industry. If the OFT were unwilling to initiate such an investigation, the BEC recommended that the Secretary of State uses the powers set out in section 132 of the Enterprise Act 2002 to refer supply ties in the public house industry to the Competition Commission for a market investigation.

In their 2009-10 report the OFT, in response to the CAMRA super complaint, confirmed Chapter I of the CA98 prohibits anti-competitive agreements. "Land agreements", like tied leases and tenancies, ordinarily would be considered anti-competitive, but were expressly excluded from the Chapter I prohibition. Since the revocation of the Land Agreements Exclusion Order, Chapter I of the CA98 now applies to land agreements with effect from 6 April 2011. Tied agreements, which restrict the commercial freedom of a trading partner such as a distributor or supplier, are types of agreement that may now fall within the prohibition.

With the revocation of the Land Agreement Exclusion Order, effective April 2011, if tied agreements are now found to infringe the Chapter I CA98 prohibition, and do not meet the criteria for exemption, they will be unenforceable. It is quite possible to sever the offending provision (the tied purchasing obligation) from the primary agreement leaving the remainder in force. With this amendment to the CA98, it may be that the Competition Commission can now consider tied agreements in the context of their anti competitive nature and confirm that the tie provisions should be severed from pub agreements where a party's market share has an appreciable effect on competition.

The above amendment to legislation has not only expected but contingency has been made for its eventuality, indeed tied agreements contain provisions making allowance for just such an prospect, e.g. (from a 2001 Enterprise Inns lease)

"The Landlord may at any time give written notice to the Tenant requiring the rent to be reviewed at any time after the happening of any event (whether a decision of a court of competent jurisdiction or the enactment of legislation and whether of the United Kingdom or the European Union) whereby all or any part of the provisions of Clause 11 and the Third Schedule (the tied purchasing obligations) may in the opinion of the Landlord be or become unenforceable by the Landlord."

From the above it should be clear to any reasonable third party that the concept that the tie would be removed through legislation was not only anticipated but has been expected for many years. No other European country permits tied purchasing agreements.

OFFERS IN LIEU OF REFERRAL

The Secretary of State may consider offers of undertakings from pub owning companies in lieu of referral to the Competition Commission.

Undertakings from pub owning companies would have to be meaningful and significant to warrant acceptance rather than referral and clearly they would have to seek to address the issue of rebalancing risk and reward and the unfairness of the contractual terms between Landlord and Lessee/Tenant.

Possible undertakings that may be under consideration are listed below as possible Beer Orders.

BEER ORDERS

Self regulation has proved to have delivered what tenant groups, including Framework Code cosignatories, and Select Committee's consider only modest reforms. Dr Cables letter to Adrian Bailey, Chairman the Business Innovations and Skills Select Committee, confirms Government were expecting more far reaching changes.

Government may be considering a reintroduction of revised and modernised set of Beer Orders to address the unique issues the pub sector faces.

Considering the former Monopolies and Mergers Commissions recommendations, contained within their report of 1989 and culminating in Beer Orders, Government may well consider reintroducing a series of Beer Orders, omitting, adapting and/or adding to those of the MMC 1989 recommendations.

We outline below some options that we would hope are under consideration.

- All pub owning companies with more than 500 pubs in their ownership shall offer their tied lessees and tenants a free of tie option on all products accompanied by an open market rent (in the event of failure to agree an open market rent there should be the opportunity to refer to a independent third party, arbitrator, independent expert or Pubs Independent Rent Review Scheme)
- All pub owning companies to permit their tied lessees and tenants to purchase one brand of any beer from a source of their choosing
- Abolish inflationary annual rent increases (these increases nullify the removal of upward only rent reviews and bear no relationship with commercial trading conditions of pubs, sales and profits in pubs have dropped nationally whilst overheads have increased - minimum wage, utilities, rates - rent in the pub sector is supposed to be related to potential sales and net profit NOT inflation)
- No pub owning company allowed to own more than 5% of the relevant market (tied leases and tenancies amount to a network of similar tied agreements that have a cumulative effect)
- Where a pub owning company, through acquisition or pub closures, exceeds the 5% pub limit they shall take immediate steps to divest the excess over 5% pubs
- No pub owning company shall tie lessees or tenants to any drinks other than beer containing 1.2% alcohol by volume
- All pub owning companies shall offer their tied lessees and tenants a free of tie option on machines accompanied by an open market rent (in the event of failure to agree an open market rent there should be the opportunity to refer to a independent third party, arbitrator, independent expert or Pubs Independent Rent Review Scheme)
- All pub owning companies and brewers to openly publish wholesale prices
- Interests of all lessees and tenants in on-licensed premises to be brought within the Landlord and Tenants Act 1954 Part II
- The Secretary of State to negotiate revisions to the British Beer and Pub Association's Framework Code of Practice governing relations between pub owning companies and their tied lessees and tenants with all interested parties, revisions need to have regard to a number of issues, including but not limited to, flow monitoring and bailiff use protocols
- Any loan ties should be fixed term and capable of termination without penalty

We hope this note provides a useful summary of what Government may be considering as options to resolve the long standing dispute relating to tied agreements and would be pleased to offer further information or explanation should you require.

The Independent Pub Confederation (IPC) is the umbrella organisation comprising, CAMRA, Federation of Small Businesses, Unite, Guild of Master Victuallers, Fair Pint Campaign, Association of Licensed Multiple Retailers, Small Independent Brewers Association, Justice for Licensees and Brighton and Hove Licensees Association. IPC were formed following mediation in 2009 when all members agreed their settled on one united common goal, that of the Select Committee's recommended compromise in respect of the tie. All pub owning companies with more than 500 pubs in their ownership shall offer their tied lessees and tenants a free of tie option on all products accompanied by an open market rent (in the event of failure to agree an open market rent there should be the opportunity to refer to a independent third party). This remains the objective and we seek a mechanism with which it can be implemented. A Statutory Code of Practice containing these provisions was the unanimous recommendation of the last three Select Committee Inquiries.

Yours sincerely

SIMON CLARKE
07850 319257

STEPHEN CORBETT
07946 721117

FAIR PINT CAMPAIGN

From: [REDACTED - S 40]
To: siclarke [REDACTED - S 40]
Subject: Re: [REDACTED - S 40] INN.
Date: Thu, 3 Jan 2013 13:38

Hi Simon

Here is a precis of what has been happening to us at The [REDACTED - S 40] as discussed by phone yesterday.

On 28/11 we had a meeting with our BDM [REDACTED - S 40]. We explained our situation i.e. that we had been subsidising the business for many months and that we had run out of money. Business had dropped of drastically since August. He said we could either surrender the lease or put it up for sale. We instructed him that we would be willing to surrender the lease. Because of an outstanding trade debt we were having to pay for our order up front. When the question of us buying out of the tie arose he said to look on the "fine" from Brulines as a part solution to our cash flow problem.

We had one email from him reminding us of our obligations of the tie. We have had no more communication from him.

We also offered to assign the fixtures and fittings to re-open a credit line but this was refused by [REDACTED S 40] Credit Controller.

On Thursday 20/12 we had a call from ["] to reiterate our obligation under the tie and to place an order. We explained the situation to her, that we could pay for an order and the rent but she asked for 300.00 loading, which we did not have. She said she would pass it to the legal Dept.

On Sat 22/12 a bailiff arrives, getting in under false pretences. He did an inventory, both of the bar and our living quarters. We then had to make him an offer which he would relay to EI. We only had one chance. We offered 2000.00, all our available cash, which was accepted. He said we had seven days to come up with another 5000.00, when in fact we were only given six, bearing in mind that this was a Sat, we had Sun, Xmas Eve, Xmas Day and Boxing Day, this only, in reality gave us Thurs 27/12. Our BDM was on holiday until 28/12. EI offices were closed til 2/1/13. The debt of 7000.00 plus has not been explained to us as we dispute that figure.

During this time our solicitor managed to get hold of [REDACTED - S 40] the Regional Manager who told us to offer 2500.00, which would be accepted, he is on holiday until 9/1. When the bailiffs called again on 28/12 we offered 2500.00, which was refused. This went on all day, us offering and them refusing until 14.50, when they accepted, after [REDACTED - S 40] telling them that if the offer was not accepted then to come in and execute the warrant. They told us that the outstanding balance would have to be discussed by us and EI. To date we have had no communication from EI.

We informed EI, through our solicitor, that because of EI actions we were, and still are, unable to restock and function as a Public House.

Our last trading session was Xmas lunch and we have remained closed

since then.

No one from EI has had the common decency to contact us, we still do not know what the debt is made up of and of any possible resolution. We are in limbo.

Please understand that this is a very brief precis and does not take into account the extreme stress that we are under. Should you need any further info, we would be more than happy to help. We have also delivered the letter to [REDACTED-S40]

Kind regards

[REDACTED-S40]

53 Email from Greg Mulholland to BIS

013/656139

[REDACTED] (CCP)

From: McLynchy Julie (CCP)
Sent: 31 May 2013 14:36
To: Hartshorne Jane (CCP)
Subject: FW:
Attachments: Financial stability of Pubcos-2.doc

From: Swinson MPST
Sent: 13 February 2013 18:46
To: (CCP); (CCP); McLynchy Julie (CCP)
Subject: FW:

to see

| Private Secretary to Jo Swinson - Minister for Employment Relations
 and Consumer Affairs | Department for Business, Innovation & Skills |
ps@bis.gsi.gov.uk | T: +4420 7215 | www.bis.gov.uk

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From: [mailto:] @parliament.uk
Sent: 13 February 2013 17:36
To: (MPST MIN);
Subject:

Hi / and ,

Greg Mulholland has asked me to draw to your attention the attached document. He would be grateful if you could bring it to the attention of Jo as well.

It clearly shows the pubcos failure to contribute anything to the economy and demonstrates the need for the Government to now fulfil its commitments to reform and free up the pub and allow them to contribute to the economy, even if this does lead to the collapse of the two largest pub companies in the country.

All the best,

Parliamentary Assistant
 Office of Greg Mulholland
 Member of Parliament for Leeds North West
 Tel:020721
 Email: @parliament.uk
www.gregmulholland.org



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54 BIS email to BBPA

bc
25: 101 HB

D12/1547313

(CCP)

From: (CCP)
Sent: 19 December 2012 17:23
To: Brigid Simmonds
Cc: (CCP); (CCP); (CCP)
Subject: Pub industry

Attachments: RT HON VINCE CABLE MP TO ADRIAN BAILEY MP 19 DEC 2012.pdf

Dear Brigid,

Thank you for your email on Friday and apologies for not replying sooner.

You should now have received a copy of the Secretary of State's most recent letter to the BIS Committee, in which he said that the changes over the past year "do not appear to have engendered the culture change that is needed" and that "significant numbers of individual publicans are continuing to face serious hardship and difficulties in operating in this industry."

As the letter indicated, the Secretary of State is considering options over Christmas and will write to the BIS Committee again in January.

In light of that, we'd be grateful if you would be able to come in for a short meeting with () and me on 2nd, 3rd or 4th January. This would be an opportunity for us to discuss, on an informal basis, the Secretary of State's preferred option(s) and to feed back to him any thoughts you might have. Clearly any decision will ultimately be based on the evidence received in the call for evidence; however, it would be helpful to have a safe space to test ideas in advance of any announcements, in case anything has inadvertently been overlooked.

I would be grateful if you could treat this email, and the discussion on the day, as being in confidence, at least until after the Secretary of State has sent his second letter to the BIS Committee.

For your information, we are writing in similar terms to Simon Clarke of the IPC (though the two meetings will be separate).

I hope you will be able to meet that week and look forward to hearing what time would suit you best.

Regards,



RT HON
CABLE MP TO

Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET | Direct line: +44 | @bis.gsi.gov.uk

The Department for Business, Innovation & Skills (BIS) is making a difference by supporting sustained growth and higher skills across the economy.
BIS: Working together for growth

55 BIS internal emails

Hartshorne Jane (CCP)

From: : (CCP)
Sent: 18 January 2013 13:00
To: Walch Emily (MPST MIN)
Subject: RE: Pubco/brewery regulation 'My Shout' PMA

Emily,

Interesting - thanks for sending on. We know there are occasional issues with family brewers - any landlord who had >300 tenants would have the odd dispute - but the evidence has (so far) strongly suggested that they are not systematically abusing their position in the same way as the larger companies.

For example, have just had a very productive meeting with CAMRA (an IPC member), who, without prompting, made the point at length that we should exempt the family brewers and that they could not support something which impacted on them.

Family brewers also have a very strong political lobby (as the debate showed), partly because each is a very major employer for their respective constituency. Internally, hitting the family brewers would significantly increase the regulatory cost.

We will look at whether the 500 number is right or whether there are any other options (one I have started exploring is whether the self-regulatory approach could continue to apply to the family brewers and that they could choose to 'opt-in' to allow the Adjudicator to arbitrate the disputes on their own company codes (which already go much further than the statutory code)).

P.S. Appreciate your time pressures, but if you do have 20 mins for a chat on pubs over the next couple of weeks that would be great - maybe some point after Jo has met some of the stakeholders.

| Assistant Director, Competition Policy | Department for
 Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria
 Street, SW1H 0ET | Direct line: +44(0)2 |

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-----Original Message-----

From: Walch Emily (MPST MIN)
Sent: 18 January 2013 11:38
To: (CCP)
Subject: FW: Pubco/brewery regulation 'My Shout' PMA

Thought you might find this interesting?

This is very interesting and pertinent, with regard to the de minimus issue

Greg Mulholland MP
MP for Leeds North West

www.gregmulholland.org<<http://www.gregmulholland.org>>

Begin forwarded message:

From: ~~Greg Mulholland MP~~
<<mailto:greg.mulholland.mp@parliament.uk>><<mailto:greg.mulholland.mp@parliament.uk>>>
Date: 17 January 2013 22:40:21 GMT
To: greg.mulholland.mp@parliament.uk<<mailto:greg.mulholland.mp@parliament.uk>>>
Subject: Pubco/brewery regulation 'My Shout' PMA

Dear Greg,

Firstly congratulations on helping to bring the Pubco issue to the attention of the general public.

While I'd agree that the small regional brewers have a better relationship with their tenants than the pubcos appear to have. As a tenant of a regional brewer Shepherd Neame for ten years (seven and a half in this pub) I am concerned that they will be exempt from any legislation due to their size at around 300 tenanted pubs. Aside from the very small brewers such as Harvey's and Palmer's once they own more than around a hundred pubs they begin to work on the same principles as the pubcos.

While they are regional they are also major suppliers to arguably Pubs biggest arch rival , supermarkets. I can buy bottles of the same beer at around 60p a bottle cheaper from Tescos and Sainsburys than I can from the brewery.

Our pub is 100% wet and easily staffed.

Our year end 30 April 2012 our turnover was £283,710 ex VAT our taxable earnings were for my wife and I £5,586 each. (Of that turnover £11,140 is for AWP's and Pool tables. Which are already charged for see below)

The brewery takes 2/3 of AWP income.

Our rent is made up thus;

House rent	£35,100	
Pool table area	£520	(that is just to have a pool table. The tables themselves are rented privately)
Service charge	£780	
Cooler charge	£390	

£36,790

We are tied for all drink purchases (with the exception of tea and coffee at the moment).

Over the years the non Sheps drink prices have become very expensive.

Guinness for example costs me currently £150.43 (ex VAT). In Bookers which is not cheap it is around £100. Strongbow costs me £141.60 (ex) In Bookers its been between £80-90 recently.

A year ago we managed to get the BDM to make one of his rare visits to discuss the state of play. We explained we had cut all of our overheads down as much as we could and that we needed the brewery to come up with a solution to give us a realistic return.

We were told they needed to see proof that we earned so little as the trade levels 'looked ok'. We had our accountant rushed through our end of year accounts to give to the BDM which we gave him along with the summery for the previous four years. The year before we earned £36k between us which we thought was low, four years ago we earned just over £50k which wasn't too bad for two people working seven days a week and living over a pub.

To cut a long story we ended up having two meetings with the property director George Barnes the last one in October. He agreed that our costings were very tightly controlled but that trade levels had hit the tipping point, the entire pub demographic in Faversham had changed in recent years and he'd have a think and get back to us. We said we'd be happy is they gave us some form of rent discount until 'normal' trade levels return. We are still waiting.

We spent a lot of our own money making the inside of the pub and the gardens attractive. Until recently the thought of leaving this pub before we decided to retire hadn't entered our minds.

We have two hopes at the moment.

· As it is our 'renewal' year for our tenancy we force Sheps into a PIRRS settlement.

· Sheps as a large regional brewer is included in any legislation controlling how the trade operates and that we can again make a living from 'our pub'.

· Or finally hand our notice in and run the pub into the ground. Which is something we'd hate doing as we've spent so much effort making it a well-loved community pub, albeit now trying to survive a recession.

This is just a brief note commenting on your 'My Shout' in the MA. I will, when we are called to, make a full submission to the consultation.

By chance Tessa Munt , Vince Cable's parliamentary secretary is a very close old school friend of my wife's (Tessa was still at school when I first met her). We'll probably come up and see her in the next few weeks. We will certainly be sending her as much evidence as we can as to why think all but the very small pub owning brewers should be included in any legislation.

Thanks for reading this
regards

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56 Emails, January 2013



From: Walch Emily (MPST MIN)
Sent: 18 January 2013 13:27
To: (CCP)
Subject: FW: Fuller's tenant forced to order in £13k of beer upfront / Pub consultant backs larger penalty fines for underage sales / WKD owner to launch rum and bourbon flavoured beers

Follow Up Flag: Follow up
Flag Status: Red

And again! (sorry just passing to you for interest/in case useful- don't feel you need to reply extensively for each you have enough on your plate as it is!)

Emily Walch
 Special Adviser to the Secretary of State Department for Business, Innovation and Skills

-----Original Message-----

From: MULHOLLAND, Greg [mailto:greg.mulholland.mp@parliament.uk]
Sent: 18 January 2013 13:12
To: MUNT, Tessa; Walch Emily (MPST MIN); SWINSON, Jo (2nd Mailbox)
Subject: Fwd: Fuller's tenant forced to order in £13k of beer upfront / Pub consultant backs larger penalty fines for underage sales / WKD owner to launch rum and bourbon flavoured beers

Top article is interesting.

The issue for the code is whether to have the 500 de minimus to exclude the family brewers, argument for doing so is largely to maintain broad support amongst MPs, which is important. The idea of the rent only option is that it will have a knock on effect on all, as it will encourage even those outside the code to only offer fair tied leases.

Greg Mulholland MP
 MP for Leeds North West

www.gregmulholland.org<<http://www.gregmulholland.org>>

Begin forwarded message:

From: The Publican's Morning Advertiser
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Date: 18 January 2013 10:45:59 GMT
To: <mulhollandg@parliament.uk<mailto:mulhollandg@parliament.uk>>
Subject: Fuller's tenant forced to order in £13k of beer upfront / Pub consultant backs larger penalty fines for underage sales / WKD owner to launch rum and bourbon flavoured beers
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- * Antic pub company tight-lipped over subsidiary administration
- * Pub consultant backs larger penalty fines for underage sales
- * Pesto eyes 10 more sites after funding boost
- * Community-run pub seeks tenant
- * Coca-Cola Enterprises teams up with CPL Training to run two
online training courses
- * WKD owner to launch rum and bourbon flavoured beers
- * Pub cleaner retires after 41 years

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Antic, the London-based pub company, has declined to comment on news that a subsidiary of the group has been placed in administration...
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A pub trade consultant believes the problem of underage drinking in the UK could be solved by instant fines of up to £700 for bar staff who serve under-18s...
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Lord Peter Daresbury, the former head of pubs group Greenalls and ex-La Tasca finance director Martin Evans, have taken minor equity stakes in and joined the board of Pesto, the north west-based pub and restaurant chain owned by La Tasca founder Neil Gatt...
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WKD owner SHS Drinks has launched two new spirit-flavoured beers aimed at 18 to 25-year-olds... Read<<http://www-t.wrbm.com/r/?id=h32ef862f,135faaa6,135faec4&pl=8E5o3cZSPN9P69j0Up59KKyHeq4Fz%2B9D>>

Pub cleaner retires after 41 years<<http://www-t.wrbm.com/r/?id=h32ef862f,135faaa6,135faec5&pl=8E5o3cZSPN%2FbMOBUL21SUqN4B%2BcVY6Sh>>

Sheila Nicholson, cleaner at the Red Lion in Chester-le-Street, County Durham, has polished the pub's bar for the last time, retiring after 41 years... Read<<http://www-t.wrbm.com/r/?id=h32ef862f,135faaa6,135faec6&pl=8E5o3cZSPN%2FTbbU7vzUxyzjLholfx11r>>

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£20,000.00- Leasehold

The White Hart should have 30 dining covers that serve a value pub food offer with regular specials.Spirit Leased is... Read<<http://www-t.wrbm.com/r/?id=h32ef862f,135faaa6,135faec9>>

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Camerons Brewery completes £24.7m refinancing deal<<http://www-t.wrbm.com/r/?id=h32ef862f,135faaa6,135faed2&pl=8E5o3cZSPN%2Fw7KkySRjq%2Fc0mF%2FE8NpRE>>

Camerons Brewery, the Hartlepool-based brewer and pub operator, has completed a £24.7m refinancing deal with the Royal Bank of Scotland Corporate & Institutional Banking (RBS CIB) as it target further growth opportunities... Read<<http://www-t.wrbm.com/r/?id=h32ef862f,135faaa6,135faed3&pl=8E5o3cZSPN%2F6ktq9RRqvSyi3w06D83Yh>>

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57 PIRRS document



1. What is PIRRS:

The Pubs Independent Rent Review Scheme offers a transparent, independent, low cost rent review resolution service to the licensed industry.

The PIRRS aims to offer an approachable independent rent resolution service with capped fees, which enables tenants and landlords to resolve previously irresolvable disputes in a fair and timely fashion.

2. The PIRRS Team:

The PIRRS is provided by five of the industry's leading associations; the Association of Licensed Multiple Retailers (ALMR), the British Beer & Pubs Association (BBPA), the British Institute of Innkeeping (BII), the Federation of Licensed Victuallers Association (FLVA), and the Guild of Master Victuallers (GMV) form PIRRS.

The PIRRS Board of Directors are currently:

Nick Bish – ALMR
Brian Rees – GMV
Martin Caffrey – FLVA
Martin Rawlings – BBPA
Neil Robertson – BII

The PIRRS Chairman is:

Bernard Brindley

The PIRRS is managed and administered by the PIRRS administration team (contact details section 7), and industry experts Phil Dixon and Rodger Vickers attend board meetings as observers. The Board may also invite further observers to Board meetings as and when required.

The Board will receive monthly management reports, and will meet quarterly to review progress of cases using the scheme, satisfaction surveys from cases already completed and general administrative requirements.

3. The Pubs Independent Rent Review Scheme Company

The Pubs Independent Rent Review Scheme is a not for profit limited company. All Pubs Independent Rent Review Scheme details are held at Companies House. The PIRRS will produce one annual report each year. PIRRS is the trading name of The Pubs Independent Rent Review Scheme a private company limited by guarantee and registered in England, Company Number: 7162516

4. How the PIRRS works:

a. Availability of the scheme:

From 1st October 2009 the PIRRS will be available throughout England and Wales.

b. Eligibility:

Participation in the scheme is possible if a tenant's pub company is a contributing member of the PIRRS. All BBPA pub owning members are also members of the PIRRS Scheme. Pub owning non BBPA members may join the scheme at a levy of £5 per number of licensed premises in their ownership.

c. The PIRRS referral

Tenants and landlords who have been unable resolve a rent review may refer the dispute to the PIRRS, although the PIRRS strongly recommends that both parties have issued a final offer to one another before this stage. The offers made by either party do need to be done so formally, discussions may be verbal. Tenants are encouraged to make a final offer to their landlord after seeking professional advice.

Upon jointly agreeing to resolve a rent review dispute via the PIRRS, both parties will be required to opt out of the rent review dispute resolution procedures detailed in their current lease or Tenancy Agreement by signing the PIRRS Deed of Variation.

Tenants should be aware that if their Lease or Tenancy Agreement is in the name of a limited Company, all guarantors for the company must sign the Deed of Variation.

A list of nominated PIRRS valuers is available on the PIRRS website. For more information as to how the PIRRS independent valuers are selected please see section 5.

The tenant on deciding they wish to utilise the PIRRS should complete a PIRRS application form and return this to the PIRRS administration team who upon confirmation that the information is accurate, will forward the landlord their separate application form, which will include details of their chosen valuer.

Once a commitment has been made by the tenant to use the PIRRS to resolve a rent dispute the tenant must return their application form to the PIRRS administration team within 45 days, after which the Landlord has the right to initiate other resolution activity.

The tenant will then receive a copy of the Deed of Variation for their signature, as will the landlord. Once the initial application form has been received, both parties must return the original copy of the Deed of Variation within 28 days of receipt. Failure to do so results in the terms of resolution reverting to those outlined in the lease agreement.

The tenant's selection of valuer will be considered final subject to no conflict of interest issues arising.

The PIRRS service then provides both tenant and landlord with all documentation required to begin independent resolution via the PIRRS, and will hand over the case to the chosen independent valuer.

Payment must be made in full to the independent Expert within 28 days of the receipt of the deed of variation. Failure to do so results in the terms of resolution reverting to those outlined in the lease agreement.

From this point onwards all administration is provided by the chosen independent valuer.

The PIRRS has no further involvement in the case, unless particular issues arise with the service, until a resolution has been reached.

Once the Independent Expert has made his determination both parties will receive notice of the final rental figure.

The PIRRS does not dictate how the Independent expert makes his determination. The Independent Expert is not required to provide his workings to either party when informing them of the final rental figure.

At this point PIRRS will contact all parties for their feedback on the PIRRS process. The PIRRS does not hold records of final rent review figures.

d. Fees:

The fees for the PIRRS are set out below. All fees become applicable upon receipt of the Deed of Variation signed by both parties by the PIRRS administration team. Fees are paid directly to the independent valuer who is responsible for invoicing both parties separately before commencing work on the case. Fees will be reviewed annually.

Fees for PIRRS entered into between 1st October 2010 – 30th September 2011:

All prices are exclusive of VAT	London Side of M25		England & Wales Outside M25	
Passing Rent* Under £25,000 p.a.	Landlord	£2,500	Landlord	£2,000
	Tenant	£1,500	Tenant	£1,000
Passing Rent* Over £25,000 p.a.	Landlord	£2,000	Landlord	£1,500
	Tenant	£2,000	Tenant	£1,500

*The PIRRS service is provided by the Independent Valuer (the "Expert") to tenants and landlords who are members of the PIRRS scheme. The PIRRS service is provided on a non-exclusive basis. The PIRRS service is provided on a non-exclusive basis. The PIRRS service is provided on a non-exclusive basis.

* The fee is based upon the pre rent review annual rental (the 'passing rent') when entering into the PIRRS. Not on the rent agreed as a result of the PIRRS

e. The PIRRS procedure

The Landlord's Initial Responsibilities

The landlord will immediately upon being notified of the appointment provide the Independent Expert valuer with the following. All legal documents should be copies of the signed and completed agreements and not draft copies:-

- a a copy of the relevant Lease or Tenancy Agreement
- b a copy of all other relevant legal documentation (e.g. any Deed of Variation, Deed of Assignment, Licence for Alterations, Machine Agreement etc.)
- c a copy of any Code of Practice, Charter or similar document the landlord is committed to in the rent review proceedings.
- d a copy of the landlord's price list concerning tied products current at the relevant rent review date. This should clearly identify any applicable discount structure.

The landlord will also without delay forward a copy of these documents to the tenant who must advise the Independent valuer in writing within seven days should he/she consider that such documentation is incorrect or incomplete, with a copy of the relevant letter also being sent to the landlord.

The landlord will supply to the Independent valuer any information required in order to comply with their obligations under their Code of Practice or Charter as may be applicable. The landlord will also confirm in writing to the Independent valuer, copy to the tenant, any issues within their Code of Practice or Charter that are specifically relevant to the Rental Determination.

The landlord will comply with the above obligations within the time frame required by the Independent valuer.

Both Parties' Responsibilities

Both parties will immediately, on the Independent Expert Valuer requesting them so to do, forward the appropriate remittance representing their share of the Independent valuer's charges to include VAT (the Independent valuer will subsequently provide each with a receipted VAT invoice). Should the case not proceed, subsequent to the Independent Expert's appointment, owing to the parties subsequently reaching agreement as to the reviewed rental or should both

request that the Independent Expert not progress the case for any reason his charges are not refundable.

The matter will proceed by way of Written Statements and Written Responses prepared by or on behalf of the parties and submitted in accordance with the timetable advised by the Independent Expert valuer.

The parties will also endeavor to provide a joint document setting out a **Statement of agreed relevant facts** and other matters on which they are able to agree. This will not exceed six pages of A4 text utilising a minimum font size of 10 pt.

The Independent valuer will be entitled to rely on this joint document and will be under no obligation to verify the information included further. The parties will not be required to repeat this information in their separate Written Statements. The joint document is to be submitted to the Independent valuer with numbered sections and paragraphs.

Improvements carried out by the tenant which should be disregarded at rent review (these would usually relate to cases where the tenant has received formal written consent to improvements carried out by him/her other than as a contractual responsibility to the landlord) should be referred to in the joint document. Where there is any dispute on this point it should be clearly identified and documentary proof furnished concerning the landlord having approved such Improvements. It should be clearly understood that the Independent Expert Valuer has no power to deal with a point of law as part of the PIRRS procedure.

The parties shall then in accordance with the relevant timetable provide the Independent Expert with their **Written Statements** which should be restricted to dealing with issues in dispute in relation to the rental value of the property. These Written Statements must be submitted in duplicate with numbered sections and paragraphs.

The Written Statements will not exceed ten pages of A4 text utilising a minimum font size of 10 pt.

The parties may each offer up to the Independent valuer either within their Written Statements or their Statement of Agreed Facts details of rent review comparables of other licensed properties they believe support their opinion of rental value and the reasons for this.

Appendices may be used to provide confirmation of evidence forms from a party who has had a direct involvement with a comparable property, and such Appendices may be included over and above the page restrictions of the Written Statements.

The Independent Expert valuer will be under no specific obligation to visit or inspect the properties detailed by the parties as representing comparables. He/She will utilise his/her own discretion on this point.

The parties may also provide within their Written Statement any or all of the following:-

- Details of the fair maintainable trade and the resultant profits they would expect the hypothetical reasonably efficient operator would achieve from the premises
- Details of the overheads they would expect the hypothetical reasonably efficient tenant to incur during a typical year

- A tenant may supply accounts, stock takers' reports or management accounts although he/she is under no legal obligation to do this (unless the Lease or Tenancy Agreement says otherwise)
- Details of the tenant's wet price list relevant at the rent review date along with a sample menu and wine list where appropriate
- Details of the machines in place at the premises as at the rent review date and confirmation of the basis on which the tenant receives machine income
- Evidence as to under or over-performance by the tenant in possession of the premises
- Evidence of any factors which have inhibited the performance of the premises – e.g. road closure, redundancies, compulsory purchase, movement of working and resident populations
- Evidence as to how the tenant has maximised the opportunity within the business
- Analysis of comparable transactions by reference to trading potential and the adoption of the profits test method of valuation

No reference shall be made to any earlier correspondence or discussions which could be classified as having been made or effected on a without prejudice basis. The term 'without prejudice' means that statements or offers have been made between the parties within negotiations genuinely aimed at achieving a settlement of the rent review.

The parties' contentions must not contain any legal argument and the Independent valuer will not have the power to determine any points of law. If there are disputes of a legal nature the Independent valuer may cease proceedings until these have been clarified.

The Independent valuer will exchange the parties' Written Statements between them and invite **Written Responses** within a specified timescale. Such Written Responses are to be restricted to comments upon matters raised in the other party's Written Statement. Under no circumstances is new evidence or information to be included in the Written Response.

The Written Responses will not exceed five sides of A4 text utilising a minimum font size of 10 pt. The Written Responses must be submitted in duplicate with numbered sections and paragraphs, and must be appropriately referenced in referring to the other party's Written Statement.

f. The Independent Valuer's Inspection

The Independent valuer will advise the parties as to when he/she will carry out his/her inspection of the property. Whilst co-operation is essential the Independent valuer will have regard to any legitimate requests to change the inspection date if this proves to be genuinely unsuitable to either party. If insufficient notice of this is given the Independent valuer reserves the right to continue with his/her inspection in any event. The Independent valuer will carry out the inspection at the earliest possible date.

The Independent valuer will provide the parties with a timetable relevant to the inspection – this would, typically, allow him/her:-

- an initial period in which to carry out his/her inspection (dependent upon the size of the property)

- if required by either of the parties a separate 20 minute period will be allowed to each party to **verbally summarise their claim**

The Independent valuer may visit at his/her absolute discretion, in an unaccompanied capacity, other premises regarded by him/her as representing competition or comparables either on the day of his/her inspection or on some other date and may require either of the parties to liaise with him to facilitate access arrangements.

g. The Independent Expert Valuer's Determination

The Independent valuer will endeavour to provide his Rental Determination within four weeks of the date of his/her inspection.

This timescale may only be varied owing to exceptional circumstances.

The Independent valuer's Rental Determination will set out a brief recital of the facts of the appointment and his/her opinion of the rental value. The Determination will not be reasoned and there will be no supporting dialogue or calculation.

The Independent valuer's Determination will be accompanied by, in Appendix Form,

- I the Procedural Details document relating to the PIRRS Independent valuer Scheme
- II The Independent valuer's Terms and Conditions
- III A copy of the Deed of Variation signed by both the landlord and the tenant stating their wish to substitute the PIRRS in place of any form of Rent Review Dispute Resolution Procedure referred to under the terms of the relevant Lease or Tenancy Agreement.

h. Subsequent action

The parties on receipt of the Independent Expert Valuer's Rental Determination are committed to completing any documentation, to include a Rent Review Memorandum or other documents provided for within the Lease or Tenancy Agreement, within a period of three weeks.

The provisions of the Lease or Tenancy Agreement relating to any relevant back payments of rental and/or interest charges will apply.

The Independent Expert valuer has no power to rule on the matter of interest charges or costs.

i. Conclusion

The intention of the PIRRS Independent valuer Scheme is to produce a quicker and more cost effective method of resolving rent review disputes.

It must be clearly understood that the timescales detailed within this document are set out in good faith in order to ensure that both delays and costs relating to the process are kept to a minimum. It is intended that willful contraventions of such timescales cannot be utilised in order to frustrate the process. A party aggrieved by the failure of the other side to comply with such timescales is entitled to request that the Independent Expert valuer proceeds to his/her Determination in any event. With regard to any dispute over timescale the Independent valuer's decision shall be final.

j. Confidentiality

Upon entering into the PIRRS both parties are required to enter into a confidentiality clause. This confidentiality clause is in place to protect the private information declared by both parties via their submissions to avoid sensitive information from being used detrimentally.

k. Assessment

The PIRRS will be continually assessed and reviewed to ensure its success. All participants in the PIRRS will be provided with feedback requests.

The PIRRS will not collect information on the outcome or workings of individual cases.

5. The PIRRS board of nominated independent valuers

Valuers who appear on the PIRRS nominated list will have been nominated by one of the organisations represented on the Board, issued with the entry paperwork, and unanimously approved by the Board as a whole.

All PIRRS independent valuers must meet the following requirements:

1. They must be nominated by one of the Board organisations and approved by the Board as a whole.
2. They must hold a qualification and professional indemnity insurance to act as an Independent Valuer
3. a) They must have at least five years experience of conducting and being involved in pubs rent reviews and they must have acted as Independent Valuer or have undertaken the appropriate qualification
or
b) They must have ten years experience of pubs rents and resolving rent reviews

At least two valuers per region will be available to all tenants and landlords. At least four valuers will be available within the M25.

Valuers are not limited in terms of the areas in which they are able to work and are therefore permitted to work in a number of regions.

Any possible conflicts of interest between an independent valuer and a landlord company are registered clearly by the list of valuers which can be found online at www.pirrscheme.com.

PIRRS will effectively require an Independent Expert to update this information when enquiring whether he/she would have a conflict in accepting a specific appointment.

Valuers will be evaluated through a feedback questionnaire by both parties after the process.

The panel of independent valuers will be reviewed by the Board annually.

6. How PIRRS is funded

The PIRRS is funded by landlord membership. Funds are contributed via a levy to BBPA members. The levy is as follows:

Pub owning BBPA members are charged £2.50 per premises which will be added to their annual membership charge generating administrative funding for the PIRRS. Being part of PIRRS is a condition of BBPA membership.

Non BBPA members may also join the PIRRS. The fee for non members of the BBPA is £5 per premises to participate in the scheme. This will be an annual fee.

7. Contact Details:

For more information about The Pubs Independent Rent Review Scheme contact:

PIRRS Administration Team:

Tara Ovington or Claire Williamson:

Tel: 01276 417825

Email: info@pirrscheme.com

58 Letter from Punch Taverns

711

D13/656126



SB/BV

26th March 2013

Assistant Director, Competition Policy
Department for Business, Innovation & Skills
1 Victoria Street
London SW1H 0ET

Dear

Statutory Code for Pub Companies

At Punch we have been giving some consideration to the legal implications of the potential introduction of a Statutory Code for the management of the relationship between Pub companies and their tenants and lessees and thought it might be helpful to share our views with you before you launch your consultation.

For the reasons outlined below we at Punch believe that a statutory code is unnecessary and potentially illegal.

It is unnecessary in that there is no "mischief" or "detriment" requiring statutory intervention.

As currently envisaged, the code would also:

- (i) deprive affected pub companies of their property rights in a way that is unjustified and disproportionate – in breach of the European Convention on Human Rights; and
- (ii) lead to very serious adverse consequences for employment, consumers and the wider economy.

We are sure that you are as keen as us to ensure that the consultation is conducted in such a way that it produces reliable evidence on which the Government is able to make a reasonable decision.

That requires both:

- (a) that the right persons are consulted. Our view is that in the past, the views of the "silent majority" of satisfied tenants have been largely ignored; and
- (b) that the questions are constructed in a way that elicits an accurate and unbiased picture. We would welcome the opportunity to discuss the consultation methodology with you.

Punch Taverns is a trading name of Punch Partnerships (PTL) Limited Reg No. 3512363, Punch Partnerships (PML) Limited Reg No. 3321199, Punch Partnerships (PGRP) Limited Reg No. 3988664 and Punch Taverns (Services) Limited Reg No. 4221944. Each of these companies noted above is registered in England and Wales and has its Registered Office as: Jubilee House, Second Avenue, Burton upon Trent, Staffordshire DE14 2WF.

No Mischief/Detriment Requiring Statutory Intervention

The BIS press release of 8th January 2013 announcing the consultation suggests that a general imbalance in the relationship between pub companies and their tenants is contributing to hardship in the pub sector. There is no evidence of any such imbalance.

The last detailed study of the pub sector was carried out by the OFT in 2009/10. It concluded that tied tenants were able to compete effectively and that the commercial interests of pub companies and their tenants were aligned in that *"any strategy by a pub company which compromises the competitive position of its lessees would not be sustainable, as this would be expected to result in sales and margin losses for the lessee and, in turn, for the pub company"*.

We also note your department's response to the Business, Innovation and Skills Committee's most recent inquiry which acknowledged that there is "little evidence to indicate that tied pubs are more likely to close". It also recognised that "data produced by CGA Strategy clearly shows that between December 2008 and June 2011 more free-of-tie pubs closed than tied pubs, both in absolute figures and as a percentage of the total number of pubs in that category."

It has been open to your department to ask the OFT to review the market again or to prompt a reference to the Competition Commission for an in-depth market investigation, but you have not done this.

We understand that in putting forward the Proposals, there has been some impetus at your department to follow the route taken in the Groceries market in setting up a Statutory Code and Adjudicator. But as you know, the Groceries Code and Adjudicator were only introduced after an in-depth Competition Commission inquiry that found evidence of "mischief" in terms of the relationship between larger supermarkets and suppliers. There is no such evidence in the pub sector.

The press release of 8th January also refers to concerns raised in previous BIS Select Committee Reports. As you are aware, the industry introduced a code of practice (the Industry Framework Code ("IFC") now in its sixth revision) to address those concerns.

The IFC regime was strengthened in 2011 in particular by making it legally binding (by incorporating the Code into all agreements) and by setting up a Pub Independent Conciliation and Arbitration Service (PICAS) to be set up under the umbrella of PIRRS. The Government stated in November 2011:

"These reforms will directly address the concerns identified by the Committee. Making the Code legally binding and setting up an independent arbitration service will deliver the same outcomes as the Committee's two principal recommendations – to make the Industry Code statutory and to establish a code Adjudicator."

The revised Code has only been in place for a short period. However, over that period, there has been no evidence to suggest that the revised Code has not been effective. On the contrary, your department has recognised that the *"independent arbitration service appears to be working well"*.

Your department further refers in the press release to concerns raised in response to the call for evidence in November 2012. But here the various industry associations and pressure groups merely re-stated their positions. There is no evidence of the type considered by the OFT in 2010.

Disproportionate interference with the property interests of pub companies

As there is no evidence of actual mischief, any interference in the contractual relationship between a pub company and its tenant will be disproportionate. We are especially concerned however about the proposals for Mandatory Free of Tie (FOT) and Equivalence.

Mandatory FOT, by potentially depriving pub companies of the entire margin on sales of beer would in effect undermine the whole pub company financial model.

As far as we know, no attempt has been made to define Equivalence. Doing so requires coming up with some form of comparator free-of-tie licensee – recognising that there is no well established model for a tenanted pub company in which the tenant is provided with beer at free-of-tie prices. At its most simplistic, such a comparator adopts the current method for calculating rent and ignores the various "SCORFA" and other benefits provided to tied tenants. Defined in that way, Equivalence would result in a substantial transfer of value from the pub company to the tenant equivalent to half of the "tied premium" (i.e. the difference between the free-of-tie beer price and the price paid by the tenant). That would have a serious negative impact on the financial position of pub companies.

Government should only contemplate such radical interference with private rights to property where there is clear evidence that doing so is necessary and proportionate to address a public interest concern. That is clearly not the case here.

European Convention on Human Rights

In those circumstances, by depriving pub companies of a future revenue stream and severely restricting their rights as owners, the Proposals could also constitute a breach of Punch's right to protection of its property enshrined in Article 1, Protocol 1 of the European Convention on Human Rights.

Serious Adverse Effects for the Wider Economy

We are also concerned that Equivalence and Mandatory FOT could lead to substantial pub closures with associated adverse effects on employment, competition, consumer choice, and property values in all pubs (not only those that are tenanted).

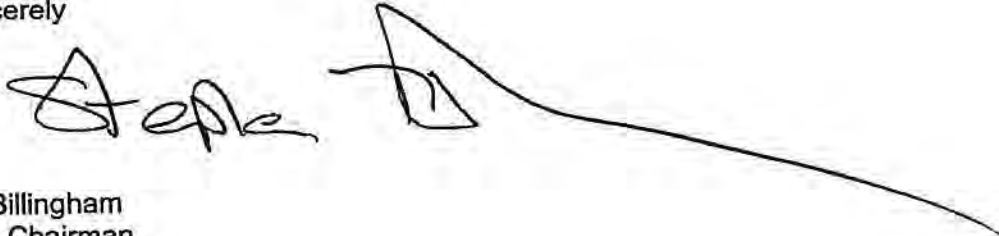
Next Steps

Punch would like to work constructively with your department to ensure that there is a good consultation focused around credible proposals based on firm legal foundations and resulting in reliable evidence on the basis of which Government can make a good policy decision.

We would like to meet ahead of your consultation at a convenient time for you to discuss further how we might be able to help this to be achieved.

We look forward to hearing from you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Stephen Billingham'. The signature is written in a cursive style with a long, sweeping tail that extends to the right.

Stephen Billingham
Executive Chairman

cc Caroline Normand, Director of Consumer and Competition Policy

59 BBPA tie questionnaire – summary results



BIS request for data to help inform the upcoming consultation on a statutory code of practice for pub operating companies

Please find below consolidated results of the survey responses received. Responses were received from 20 members owning 16,000 tenanted/leased pubs, the results have been scaled up to reflect all tenanted/leased pubs in BBPA membership (c.20,000).

Total cost since 2010 of:

Code implementation	£	2,625,149
PIRRS/PICA-Service	£	755,360
Training	£	325,168
Other	£	256,751
Total cost since 2010	£	3,962,427

Cost per annum of:

Code implementation	£	568,887
PIRRS/PICAS	£	319,529
Training	£	120,920
Other	£	94,292
Total cost p.a.	£	1,103,628

Average rent level change over last year	-5%
--	-----

Consolidated cost estimates for a statutory code indicate that this would cost the sector in the region of £2 million for all tied agreements (around £0.9 million for tied leases alone). However, these estimates are based on a number of unknowns and uncertainties; hence these should be treated with caution at this stage.

Below are consolidated views from members on the question 'What do you believe are the key implications, financial and otherwise, that would arise from having to offer a mandatory free-of-tie option?' Please note the majority of these responses relate to a 'worst case' scenario whereby large numbers of tenants/lessees take up a free-of-tie option

- (Mandatory FOT option) would effectively foreclose a large part of the market to smaller/regional suppliers and restrict consumer choice as was the case pre-1990.
- Surviving regional breweries would lose interest in their tenants and brewery businesses eventually, selling these off.

For internal BBPA and member use only

- Large pub companies would sell large numbers of their pubs leading to a disorderly property market, some quite quickly.
- Rents for licensees would rise markedly, thereby increasing the licensee's fixed cost base which renders their business more vulnerable to trading pattern changes. SCORFA spending by pub companies would drop/disappear.
- Introduction of 'free of tie' could seriously damage relationships held between licensee and pub company/brewery – and result in a formal rent collection/property condition regime typified in normal commercial letting. Staffing levels in pub companies would fall by 80% as they would simply become property companies and rent collectors.
- Volumes of own brewed beers would reduce significantly if free of tie offered for regional brewers, reducing margins and making them uncompetitive in the free trade, resulting in withdrawal from the free trade, which would reduce choice and ultimately result in increased prices from wholesalers and national brewers.
- A mandatory free of tie option would be anti-competitive unless applied to all leased and tenanted pubs. Two virtually identical pubs in the same village would be subjected to a different set of rules.
- Transfer of more top end leased pubs back to direct managed model.
- The outcome of free of tie would be that the brewer, selling directly to the pub, would be able to keep the additional margin. The major beneficiary of free of tie would be the international brewers who would have the greatest ability to offer the lowest prices, therefore damaging particularly medium size brewing companies (above progressive beer duty levels).
- Some members noted that their tenants had never sought any legal remedy to any dispute; instead disputes are resolved within the company. The effort and expense of a statutory code would be creating the supply of an expensive and cumbersome product for which there is compelling evidence of a complete lack of demand.
- Many of brewery/pub company sites are the only pub in their community. Any further loosening of a tie in these would potentially damage their viability ,as the increase in cost would not be offset by the FOT benefits
- Free of tie tenants have been failing at a higher rate than tied tenants - as highlighted in the Government's November 2011 report. The logic behind the move to create more is therefore questionable.

Summary of main views received

The tie is vital to the stability of the UK tenanted and leased pub sector and is fundamental to the survival of family and regional brewers. Consequences of losing the tie on a large scale are likely to include:

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- Increased pub closures and subsequent impact on employment (both direct and indirect);
- A negative impact on pub sales and property value;
- Less people entering the sector;
- Less choice of brands in those pubs that remain for the consumer;
- Closure of breweries and/or breweries divesting their pub estates,
- Denying small brewers a (currently effective) route to market

In summary, if mandatory FOT is taken up there would be potentially devastating consequences for the pub sector, employment and UK brewing.

British Beer & Pub Association

14 February 2013

60 Note of roundtable meeting

[Note of meeting by BIS officials but not agreed with the participants from the breweries]

Roundtable series on pubs - 7th of February

Jo Swinson BIS

[REDACTED - s.40] BIS

[REDACTED - s.40] BIS

[REDACTED - s.40] BIS

Simon Longbottom, Greene King

Jonathan Neame – Chief Executive Shepherd Neame Brewery

Stephen Gould – Chief Executive Everards Brewery

Jonathan Paveley – Chairman Hook Norton Brewery

James Staughton - Chairman IFBB

Representatives and members of the IFBB and Family Brewers talked the Minister through the attached documents.

They noted that it was overwhelmingly in the commercial interest of the brewers to have a good relationship with their tenants and that tenants' relationships with their landlords had improved over the last 12 months with 20% reporting that relationships had improved and a further 66% reporting that relationships had remained the same. [DN I didn't note the source/ name of this study did you?].

The brewers were supportive of the voluntary code and would continue to work to see that version 6 was implemented swiftly and effectively. They were also supportive of the general principle that 'a tied licensee should be no worse off than a free of tie licensee' although they noted that it was crucial that it was made explicit that this principle should be evaluated over the life of the agreement. Without this, it was their view that it would be possible for tenants to switch from a free-of-tie to a tied option whenever costs (such as repairs) were incurred so that they would become payable by the landlord, reverting to a free-of-tie model once such costs were dealt with.

Concerns were raised about the possibility of a de minimus threshold. Experience of the beer order limit highlighted the dangers of imposing arbitrary limits. It was suggested that more effective than a threshold limit would be a distinction based on the nature of the commercial relationship - that is - whether it was a lease or a tenancy. A statutory code to prevent abuse of the tie was acceptable but tenancies should not be covered in this process.

Participants also raised concerns about who would fund a statutory adjudicator and how such funds would be raised. Further detail in the consultation would be welcomed.

A suggestion was made that the Minister visit family brewer lessees to hear about their experiences directly.

Action: Jo Swinson's office to arrange a visit for the Minister

[REDACTED – s.40] | Private Secretary to Jo Swinson - Minister for Employment Relations and Consumer Affairs | Department for Business, Innovation & Skills | [REDACTED – s.40] | www.bis.gov.uk

All emails and attachments sent by a member of the Private Office to an official on behalf of a Minister relating to a decision, request or comment made by a Minister, or a note of a Ministerial meeting, must be filed appropriately by the recipient. Private Offices do not keep official records of such emails or attachments.

61 Emails between BBPA and BIS

Attachments: Pub Closure Stats.bmp

From: Jonathan Mail [REDACTED - s.40]

Sent: 01 February 2013 15:49

To: [REDACTED - s.40] (CCP)

Cc: [REDACTED - s.40](CCP)

Subject: Re: Pubs / beer tie

Hi [REDACTED - s.40]

Apologies for the delay in replying. Please find the statistics attached.

Our take on the figures is that over an extended period of time tied pubs (net closures of 9.3 per week) have been closing at a slightly faster rate than free of tie pubs (net closures of 7.5 per week).

Many thanks

Jonathan Mail
Head of Public Affairs
CAMRA, The Campaign for Real Ale

[REDACTED - s.40]w: www.camra.org.uk

On 31 January 2013 09:56, [REDACTED - s.40](CCP) wrote:

Dear Jonathan,

Thank you for such a prompt reply. The Fleurets report and SIBA document both make very interesting reading.

Could I prompt you also for the pub closure figures please?

Thank you,

[REDACTED - s.40]

[REDACTED - s.40] Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET | Direct line: [REDACTED - s.40]The Department for Business, Innovation & Skills (BIS) is making a difference by supporting sustained growth and higher skills across the economy.

BIS: Working together for growth

From: Jonathan Mail [REDACTED - s.40]

Sent: 30 January 2013 16:33

To: [REDACTED - s.40](CCP)

Cc: [REDACTED - s.40](CCP)

Subject: Re: Pubs / beer tie

Dear [REDACTED - s.40]

Apologies for the delay in providing this data for you.

The attached report from Fleurets seems to contradict the claims from Punch Taverns. 54% of pubs sold by Fleurets are for alternative use and the agents put this high percentage down to the large number of pubs being sold by the pubcos.

The majority of micro brewer sales into tied pubs will be via SIBA's Direct Delivery Scheme. Page 17 of the following report indicates this is a very small proportion of total sales:

http://siba.co.uk/wp-content/uploads/2011/02/industry_report_20111.pdf

Many thanks

Jonathan Mail
Head of Public Affairs
CAMRA, The Campaign for Real Ale

[REDACTED - s.40]
w: www.camra.org.uk

On 30 January 2013 16:16, [REDACTED - s.40](CCP) wrote:

Dear Jonathan,

Thank you again for the data below from the CGA survey. I had two further questions which I wondered if you could help us with (appreciate these may not be information you have at hand):

1) In his recent article for the PMA, Roger Whiteside indicated that only 60% of the pubs disposed of by Punch stay open as Punch. Do you have any figures regarding the proportion of pubs sold by the major pubcos that continue in use as pubs?

2) Do you have any stats that would indicate microbreweries' share of the beer market in (a) the tied and (b) the free of tie sector of the market?

Could I also ask when you will be able to get us the other information we discussed (the latest pub closure figures and the wider stats on the beer market)? It would be of great help to our Ministers in making decisions if these could come through quite soon.

Regards and many thanks once again,

[REDACTED - s.40]

[REDACTED - s.40] Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET | Direct line: [REDACTED - s.40]

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From: Jonathan Mail [REDACTED - s.40]
Sent: 22 January 2013 09:44
To: [REDACTED - s.40](CCP)
Cc: [REDACTED - s.40](CCP)
Subject: Re: Pubs / beer tie

Dear [REDACTED - s.40]

Thank you for your time on Friday.

We promised to send over various pieces of information. Attached is the data from the CGA survey commissioned by the ippr with raw numbers.

Hope the Ministerial meeting today goes well.

Many thanks

Jonathan Mail
Head of Public Affairs
CAMRA, The Campaign for Real Ale

[REDACTED - s.40]
w: www.camra.org.uk

On 14 January 2013 17:09, [REDACTED - s.40](CCP) wrote:
Dear Jonathan,

Excellent - I look forward to meeting you and Emily then.

Regards,

[REDACTED - s.40]

[REDACTED - s.40] Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET | Direct line: [REDACTED - s.40]

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From: Jonathan Mail [REDACTED - s.40]
Sent: 14 January 2013 16:45

To: [REDACTED - s.40](CCP)
Cc: [REDACTED - s.40](CCP)
Subject: Re: Pubs / beer tie

Dear [REDACTED - s.40]

Yes, we were following last week's announcement and debate closely. We are very pleased with what has been proposed and look forward to helping work out the details.

I am this Friday would work well for us. Look forward to meeting you again then. Our Campaigns Manager, Emily Ryans would like to join us as well.

Many thanks

Jonathan Mail
Head of Public Affairs
CAMRA, The Campaign for Real Ale

[REDACTED - s.40]

w: www.camra.org.uk

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[Sign our Beer Tax e-petition now!](#)



On 10 January 2013 11:22, [REDACTED - s.40](CCP) [REDACTED - s.40] wrote:

Dear Jonathan,

Thank you very much for this helpful and timely information and apologies for not replying sooner. I am sure you have been following Tuesday's announcement and yesterday's debate.

In terms of meeting, can I suggest next Friday at 11:00am? In the light of the recent announcement, two issues that we would be particularly be interested in exploring are:

- Who should the new regulatory regime apply to? Should the threshold be 100/500/1000; should there be a distinction between leases and tenancies; etc.

- How exactly does the tie support Britain's brewing industry, particularly in the case of the family brewers, but also for larger brewers such as Marston's and Greene King? What would the impact be of mandating a free of tie option?

Any evidence that CAMRA was able to present on either issue,

particularly if this involved hard quantitative data, would be particularly valuable.

We would also, of course, be very interested to hear any other points that you wish to present regarding the proposed Code and Adjudicator.

Regards,

[REDACTED - s.40]

[REDACTED - s.40] Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET | Direct line: [REDACTED - s.40]

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From: Jonathan Mail [mailto:[REDACTED - s.40]]
Sent: 08 January 2013 11:13
To: [REDACTED - s.40](CCP)
Cc: [REDACTED - s.40](CCP)
Subject: Re: Pubs / beer tie

Dear [REDACTED - s.40]

Thank you for getting in touch. I am available anytime next Monday, Tuesday or Friday. Unfortunately, I'm not available at all on the Weds or Thurs as I am visiting the Scottish Parliament.

The figures show that in the year to Sept 2012 exactly the same number of free of tie pubs closed on a net basis as leased and tenanted pubs: 536 in each category. Broadly speaking the BBPA's percentage figures are therefore correct. From our point of view the bigger picture is that the actual number of leased/tenanted pubs has fallen by over 3,000 in the last few years whereas the number of free of tie pubs has remained stable at just above 20,000. These figures give a better indication as to the relative health of the two sectors.

Look forward to meeting you again next week.

Many thanks

Jonathan Mail
Head of Public Affairs
CAMRA, The Campaign for Real Ale

[REDACTED - s.40]

w: www.camra.org.uk

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Sign our Beer Tax e-petition now!



On 8 January 2013 09:48, [REDACTED - s.40](CCP) wrote:

Dear Jonathan,

Thank you for your response to the Secretary of State's call for evidence last week. I know you saw his letter to the Select Committee on 19th December and will ensure you are also sent a copy of the follow-up letter which he indicated he would send, which we expect to be sent shortly.

On that note, and following the Parliamentary debate tomorrow, we would be very pleased if you were able to come to a meeting at some point next week, in order to discuss various aspects of the Government's emerging way forward. We know that CAMRA is a long-standing contributor to this debate, as well as having a substantial evidence base with could inform policy.

On a separate note, can I ask whether the BBPA figures on tied/free-of-tie pub closures published in the Mail on Sunday match those which you have derived from your latest CGA Strategy report? If not, could I ask what the correct raw figures are for net closures (tied and free of tie)?

I'd be grateful if you could let me know whether you are able to meet next week and if so, what days/time would be most convenient for you.

Regards,

[REDACTED - s.40]

[REDACTED - s.40] Assistant Director, Competition Policy |
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62 Emails between CAMRA and BIS

Attachments: Pub Closure Stats.bmp

From: Jonathan Mail [REDACTED - s.40]

Sent: 01 February 2013 15:49

To: [REDACTED - s.40] (CCP)

Cc: [REDACTED - s.40](CCP)

Subject: Re: Pubs / beer tie

Hi [REDACTED - s.40]

Apologies for the delay in replying. Please find the statistics attached.

Our take on the figures is that over an extended period of time tied pubs (net closures of 9.3 per week) have been closing at a slightly faster rate than free of tie pubs (net closures of 7.5 per week).

Many thanks

Jonathan Mail
Head of Public Affairs
CAMRA, The Campaign for Real Ale

[REDACTED - s.40]w: www.camra.org.uk

On 31 January 2013 09:56, [REDACTED - s.40](CCP) wrote:

Dear Jonathan,

Thank you for such a prompt reply. The Fleurets report and SIBA document both make very interesting reading.

Could I prompt you also for the pub closure figures please?

Thank you,

[REDACTED - s.40]

[REDACTED - s.40] Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET | Direct line: [REDACTED - s.40]The Department for Business, Innovation & Skills (BIS) is making a difference by supporting sustained growth and higher skills across the economy.

BIS: Working together for growth

From: Jonathan Mail [REDACTED - s.40]

Sent: 30 January 2013 16:33

To: [REDACTED - s.40](CCP)

Cc: [REDACTED - s.40](CCP)

Subject: Re: Pubs / beer tie

Dear [REDACTED - s.40]

Apologies for the delay in providing this data for you.

The attached report from Fleurets seems to contradict the claims from Punch Taverns. 54% of pubs sold by Fleurets are for alternative use and the agents put this high percentage down to the large number of pubs being sold by the pubcos.

The majority of micro brewer sales into tied pubs will be via SIBA's Direct Delivery Scheme. Page 17 of the following report indicates this is a very small proportion of total sales:

http://siba.co.uk/wp-content/uploads/2011/02/industry_report_20111.pdf

Many thanks

Jonathan Mail
Head of Public Affairs
CAMRA, The Campaign for Real Ale

[REDACTED - s.40]
w: www.camra.org.uk

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Sent: 22 January 2013 09:44
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Cc: [REDACTED - s.40](CCP)
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From: Jonathan Mail [mailto:[REDACTED - s.40]]
Sent: 08 January 2013 11:13
To: [REDACTED - s.40](CCP)
Cc: [REDACTED - s.40](CCP)
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[REDACTED - s.40]

w: www.camra.org.uk

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63 Table

2. Total GB Pub Closures by Tenure

		Total Outlets					
Tenure	Mar-10	Sep-12	Net Closures	Transfers in	Difference	% Change	Per Week
Free	21,601	20,516	-975	-110	-1,085	-5.0%	-8
Managed	9,577	9,714	286	-149	137	1.4%	2
Non Managed	28,404	27,448	-1,215	259	-956	-3.4%	-9
Total	59,582	57,678	-1,904	0	-1,904	-3.2%	-15

*Please note, net closures have been calculated based on openings minus closures in order to take pubs transferring between categories into account

64 Email from CAMRA

Attachments: Prices Survey 2012 Final Report (2).xls

From: Jonathan Mail [REDACTED - s.40]

Sent: 19 February 2013 10:40

To: [REDACTED - s.40](CCP)

Cc: Emily Ryans

Subject: CAMRA Stats

Dear [REDACTED - s.40]

Hope work on the pubco consultation is coming along well.

Following our meeting a few weeks ago here are the outstanding pieces of information that you requested from us.

CAMRA's pubs prices survey for 2011 showed that lager and real ale were most expensive in tied pubs. Real ale was 12p more expensive and lager 15p more expensive in tied pubs compared to free house pubs. The full data is attached.

When we met we discussed what level of financial rebalancing would be necessary to ensure tied licensees were no worse off than free of tie licensees. There are two key elements to this: rent and tied beer prices.

In terms of large pubco lease rents, a CAMRA survey in 2010 of 211 pubs on the market indicated that tied rents were 9.5% of turnover and free of tie rents were 9.2% of turnover. The latest ALMR 2012 benchmarking survey indicated that tied lease rents were 12.3% of turnover and free of tie rents 10.7% (stats available <http://www.almr.org.uk/hotpdfs/194.pdf>). These figures show there is no truth in the claim that high tied beer prices are compensated for by low rents – in fact the reverse appears to be true.

The OFT in 2010 estimated that an average tied pub paid £15,500 more for beer than if they were a free of tie pub. The large pubcos (more than 500 pubs) tie around 16,000 pubs. Therefore removing the disadvantage of tied licensees on tied beer prices alone would involve a shift of £248 million from pubcos to licensees.

We don't have data on family brewer beer sales I'm afraid. Our understanding is that some of the family brewers will sell over 90% of their production in their tied pubs, whereas others will sell upwards of 80% in the free trade.

Of the beer sold in the UK 87% is brewed in the UK. The following pamphlet has lots of stats on the contribution of UK brewing to the UK economy: <http://s3.amazonaws.com/bbpa-prod/attachments/documents/resources/21241/original/The%20Beer%20Story%20-%20Facts%20on%20tap.pdf?1329410826>

As you know CAMRA are very supportive of the proposed 500 pub deminimis to support the family brewers who have stuck to running traditional tenancy agreements which are operated in a much fairer and more sustainable manner. Would you be able to update us on your thinking in this area?

Many thanks

Jonathan Mail
Head of Public Affairs
CAMRA, The Campaign for Real Ale

[REDACTED - s.40]
w: www.camra.org.uk

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65 Table from CAMRA

Results of CAMRA's Annual Prices Survey 2012

A Survey of 1058 Pubs across the United Kingdom
 Conducted between 16 January and 29 February 2012
 Prices are given in Pence

Real Ales	Feb '12	Feb '11	% Change	Cheapest	Priciest
UK	291	284	2.7%	136	420
By Region					
Eastern England	305	295	3.3%	175	390
East Midlands	281	273	2.8%	139	370
London	324	315	3.1%	150	415
North	284	269	5.8%	199	340
North West	264	247	6.6%	135	420
Northern Ireland	300	286	5.0%	165	350
Scotland	290	296	-2.1%	165	350
South East	308	304	1.2%	170	390
South West	294	288	2.2%	165	375
Wales	276	264	4.3%	220	360
West Midlands	270	255	6.2%	160	358
Yorkshire	272	257	5.6%	160	340
By Type of Pub					
Free Houses	293	286	2.7%	165	400
Managed Pubs	273	267	2.5%	135	415
Tied Pubs	305	294	3.6%	160	420

Lager	Feb '12	Feb '11	% Change	Cheapest	Priciest
UK	309	302	2.3%	190	410
By Region					
Eastern England	323	314	2.9%	240	385
East Midlands	297	289	2.6%	199	360
London	337	331	1.8%	199	410
North	302	291	3.7%	225	360
North West	290	275	5.6%	170	370
Northern Ireland	321	310	3.6%	250	350
Scotland	293	291	0.6%	210	345
South East	326	322	1.1%	199	390
South West	305	306	-0.3%	230	370
Wales	290	277	4.7%	265	325
West Midlands	294	277	6.0%	199	365
Yorkshire	293	274	7.0%	177	340
By Type of Pub					
Free Houses	308	304	1.2%	190	400
Managed Pubs	292	286	2.0%	170	410
Tied Pubs	323	312	3.7%	204	385

All Drinks	Feb '12	Feb '11	%Change	Cheapest	Priciest
Real Ale	291	284	2.7%	136	420
Lager	309	302	2.3%	190	410
Real Cider	312	301	3.5%	190	416

Price per Unit (p)	
Real Ale	126
Lager	137
Real Cider	87

Real Ale prices for National and International Brewers' Beers	Feb '12	Feb '11	%Change
	289	280	3.2%

Real Ale prices for Independent Brewers' Beers	Feb '12	Feb '11	%Change
	296	292	1.2%

Real Ale prices for Micro-Brewers' Beers	Feb '12	Feb '11	%Change
	290	280	3.3%

Calculations

Samples	Feb '12	Feb '11	
2809	291.331	283.749	UK
By Region			
324	304.722	294.855	East Anglia
264	281.110	273.375	East Midlands
237	324.249	314.555	London
128	284.313	268.612	North
272	263.904	247.497	North West
14	300.357	286.154	N. Ire
102	289.833	296.051	Scotland
578	308.083	304.467	South East
305	294.262	287.845	South West
84	275.595	264.111	Wales
359	270.373	254.592	West Midlands
145	271.800	257.438	Yorkshire

1090	293.205	285.632	Free Houses
647	273.478	266.729	Managed Pubs
884	304.611	294.125	Tenanted Pubs

Samples	Feb '12	Feb '11	
965	308.879	301.923	UK
By Region			
108	323.417	314.290	East Anglia
90	296.884	289.230	East Midlands
82	336.560	330.513	London
43	301.628	290.750	North
95	289.916	274.574	North West
8	321.250	310.000	N.Ire
41	292.878	291.257	Scotland
195	326.051	322.387	South East
105	304.714	305.677	South West
31	290.484	277.483	Wales
119	294.218	277.451	West Midlands
48	293.333	274.154	Yorkshire

365	307.679	303.982	Free Houses
220	292.177	286.403	Managed Pubs
317	323.18	311.792	Tenanted Pubs

Samples	Feb '12	Feb '11	All Drinks
2809	291.331	283.749	Real Ale
965	308.879	301.923	Lager
	311.776	301.23	Price of Real Cider

Price per Unit (p)	
126.070	Real Ale
136.634	Lager
87.346	Real Cider

Samples	Feb '12	Feb '11	
813	288.530	279.658	Real Ale prices for Nat & Internat brewers' beers

Samples	Feb '12	Feb '11	
847	296.071	292.473	Real Ale prices for Independent brewers' beers

Samples	Feb '12	Feb '11	
1117	289.538	280.356	Real Ale prices for Micro-brewers' beers

Analysis by Type of Draught Product

Real Cider	Feb '12	Feb '11	% Change	Cheapest	Priciest
UK	312	301	3.5%	190	416
By Region					
Eastern England	327	319	2.5%	250	390
East Midlands	317	296	7.1%	235	400
London	334	330	1.3%	240	400
North	321	307	4.4%	250	370
North West	300	292	2.7%	210	370
Northern Ireland	190	175	8.6%	190	190
Scotland	318	290	9.6%	290	380
South East	327	319	2.5%	245	385
South West	295	293	0.8%	220	370
Wales	292	296	-1.4%	250	335
West Midlands	292	283	3.2%	210	395
Yorkshire	323	284	13.8%	250	416
By Type of Pub					
Free Houses	313	307	2.1%	210	400
Managed Pubs	298	280	6.4%	190	416
Tied Pubs	337	316	6.6%	260	400

Samples	Feb '12	Feb '11	UK
295	311.776	301.230	UK
By Region			
324	327.069	318.966	East Anglia
33	317.000	295.867	East Midlands
20	334.000	329.688	London
28	320.786	307.400	North
25	299.654	291.667	North West
1	190.000	175.000	N. Ire
7	317.857	290.000	Scotland
44	326.932	319.028	South East
43	295.000	292.581	South West
8	291.875	295.923	Wales
43	291.953	282.895	West Midlands
13	323.154	283.857	Yorkshire
By Type of Pub			
148	312.98	306.681	Free Houses
77	297.779	279.792	Managed Pubs
50	336.6	315.776	Tenanted Pubs

Analysis by Region

Eastern England					
Product	Feb '12	Feb '11	% Change	Cheapest	Priciest
Real Ale	305	295	3.3%	175	390
Lager	323	314	2.9%	240	385
Real Cider	327	319	2.5%	250	390

East Midlands					
Product	Feb '12	Feb '11	% Change	Cheapest	Priciest
Real Ale	281	273	2.8%	139	370
Lager	297	289	2.6%	199	360
Real Cider	317	296	7.1%	235	400

London					
Product	Feb '12	Feb '11	% Change	Cheapest	Priciest
Real Ale	324	315	3.1%	150	415
Lager	337	331	1.8%	199	410
Real Cider	334	330	1.3%	240	400

124					
Samples	Feb '12	Feb '11	Nat	East	
324	304.722	294.855	291.331	Real Ale	
108	323.417	314.290	308.879	Lager	
29	327.069	318.966	311.776	Real Cider	

96					
Samples	Feb '12	Feb '11	Nat	East Mid	
264	281.110	273.375	291.331	Real Ale	
90	296.884	289.230	308.879	Lager	
33	317.000	295.867	311.776	Real Cider	

86					
Samples	Feb '12	Feb '11	Nat	Lond	
237	324.249	314.555	291.331	Real Ale	
82	336.560	330.513	308.879	Lager	
20	334.000	329.688	311.776	Real Cider	

66 Emails between BIS and BBPA

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D13/656039

[Redacted] (CCP)
From: McLynchy Julie (CCP)
Sent: 31 May 2013 15:06
To: [Redacted] (CCP)
Subject: FW: Meeting with BBPA Members

From: [Redacted] (CCP)
Sent: 28 March 2013 09:58
To: 'Pamela Bates'
Cc: McLynchy Julie (CCP)
Subject: RE: Meeting with BBPA Members

Dear Pamela,

I am unfortunately on leave that week but Julie McLynchy, my deputy director, would be able to meet.

Looking at her diary, the best time is likely to be 4pm - 5pm on Tuesday 9th.

Regards,

↳ meeting arranged but cancelled by BBPA on the day.

| Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET | Direct line

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From: Pamela Bates [Redacted]
Sent: 28 March 2013 09:47
To: [Redacted]
Subject: Meeting with BBPA Members

Good morning

Brigid has now gone on holiday for a week but asked me to see if it would be possible for her to come to see you with a few of our larger pub company members week commencing 8th April. Looking at her diary she is available as follows -

- Free Monday 8th
- Tuesday 9th - pm
- Wednesday 10th - pm
- Friday 12th - between 12 and 2pm

I look forward to hearing from you.
Many thanks
Pamela

Pamela Bates
Assistant to Chief Executive

British Beer & Pub Association
Ground Floor
Brewers' Hall
Aldermanbury Square
London EC2V 7HR

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67 Note of 27 February meeting

0131656090

██████████ (CCP)

From: McLynchy Julie (CCP)
Sent: 04 June 2013 17:13
To: (CCP)
Subject: FW: Meeting note - Michael Fallon and Ted Tuppen, 27 February

From: Fallon MPST
Sent: 12 March 2013 11:41
To: McLynchy Julie (CCP); (CCP); (CCP); Swinson MPST; SPAD FALLON MPST; (MPST MIN)
Subject: Meeting note - Michael Fallon and Ted Tuppen, 27 February

All,

Please see attached a note of the meeting between Ted Tuppen, CEO of Enterprise Inns, and Michael Fallon on the 27th February, 11.30am-12pm - apologies for the delay sending round.

+++++

Attendees: Michael Fallon, Ted Tuppen, James Wild (Minister's Special Adviser), Julie McLynchy (CCP), Tara Fernando (PS)

Ted Tuppen (TT) wanted to raise the issue of the Statutory Code for Pubs with Michael Fallon (MF).

TT highlighted his concerns that through the work of the Select Committee, numerous references to 'evidence' had been made, though when he had specifically requested details, nothing has been forthcoming. He also stated that he had not received responses to his letters to the Secretary of State – **Action: Fallon office to speak with SoS office.**

TT stated that he is opposed to a statutory code in principle – he feels it is unnecessary.

TT offered MF a visit to one of the Enterprise Inns in his constituency, stating they have very good relationships with their licensees, but do take action when they violate the terms of their contracts – **Action: Fallon Office.**

TT stated that through the PICAS complaints system of three cases that related to them, they had successfully defended two. ~~TT~~ stated that there were 42 cases in total (NB - subsequently found to be 41 inquiries as of 9 January 2013), though not all may meet the minimum requirements to warrant further investigation.

TT expressed concerns that the introduction of a statutory code will have perverse consequences – for example, Enterprise's own code of practice is more extensive than the code, but they will be paring it back to match the statutory code and thinks others will do the same.


JR stated that there was widespread awareness of the consultation, and Julie McLynchy stated that it will be an open and genuine consultation but that where the Government is minded to pursue a certain direction this would be made clear.

MF stated in response to TT's concerns on evidence that for the government to introduce a statutory code, there will have to be very clear evidence in support of this course of action coming out of the consultation, and that this was not a 'Lib Dem policy'.

JM stated that BIS are working towards launching the Consultation before Easter, and it will run for six weeks.

| Assistant Private Secretary to the Rt Hon Michael Fallon MP | Department for Business,

04/06/2013

Innovation & Skills | email: [@bis.gsi.gov.uk](mailto:) | t: 020 7215 | www.bis.gov.uk 

All emails and their attachments containing a meeting minute, decision or comment on a submission by the Minister must be filed in Matrix by the policy team, as specified by Cabinet Office and BIS guidance.

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68 Emails, January 2013

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013 / 28533

[REDACTED] (CCP)

From:
Sent: 09 January 2013 09:42
To:
Cc:
Subject: RE: Government plans statutory action on pubcos

Dear :

Happy New Year to you, also, and I hope you are also well! I suspect the busyness will continue.

The Government's current position is that we intend the Code to include the core principle that 'a tied licensee be no worse off than a free of tie licensee', but not to mandate a free of tie option. However, Ministers recognise that there is a range of views on this subject and so it is very likely we will be explicitly asking the question about 'free of tie' in that consultation and, therefore, would prefer not to completely prejudge the question.

I know they will want to hear your views, as it is good to show there are different views on that issue amongst licensees.

Happy to discuss if desired.

Regards,

| Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET | Direct line: +44(0)20 7215 | @bis.gsi.gov.uk

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From: I
Sent: 08 January 2013 16:47
To: (CCP)
Cc:
Subject: FW: Government plans statutory action on pubcos

Happy New Year to you and I hope that you are well – if busy!

I just wondered whether you could clear up one point for me about today's announcement. The initial press release (below) that we received refers in editor's note 7 to the new Code not mandating a Free of Tie Option – which we believe to be more pragmatic - but the online version posted on Gov.uk appears to have this sub para removed.
<https://www.gov.uk/government/news/press-release-new-proposals-to-stand-up-for-british-pubs-and-prevent-unfair-practices>

Am sure you will appreciate that this is the source of much debate – both by those pro and anti – with some suggesting that this now means that a Free of Tie Option will form part of the consultation. Could you clarify whether there is a change in approach between the two or whether there is a reason for the omission.

Kind regards

Strategic Affairs Director

Association of Licensed Multiple Retailers
9B Walpole Court, Ealing Studios, London, W5 5ED
Tel: or fax: (

Registered office as above. Registered in England No: 3964186

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New proposals to stand up for British pubs and prevent unfair practices

08 January 2013 13:40

Department for Business, Innovation and Skills

Struggling pub landlords were promised help today with Business Secretary Vince Cable announcing plans for an independent Adjudicator to address unfair practices in the industry.

As well as the new Adjudicator Dr Cable also wants to establish a new statutory Code to look at the relationship between large pub companies and publicans, which will be enforced by the Adjudicator. This new Code will ensure fair practices for a number of issues including rents and the prices publicans pay for beer. It would also have the power to investigate and deal with disputes between pub companies (pubcos) and publicans, and in some cases have the power to fine.

In particular, the proposed Code would prevent abuses of the beer tie, which oblige publicans to sell particular types of beer. It would enshrine the fundamental principle that 'a tied licensee should be no worse off than a free-of-tie-licensee' which will ensure a level playing field is maintained in the pub sector.

Business Secretary Vince Cable said:

"There is some real hardship in the pubs sector, with many pubs going to the wall as publicans struggling to survive on tiny margins. Some of this is due to pubcos exploiting and squeezing their publicans by unfair practices and a focus on short-term profits. Four Select Committee reviews since 2004 have highlighted these problems.

"Last year we gave the pubcos one last chance to change their behaviour but it is clear that the self-regulatory approach was not enough and in October I wrote to the industry to seek their views. A change in the law is now needed to shift behaviour.

"I hope these measures mean publicans are given a fairer chance at running their pub, which in turn will help them grow their businesses instead of losing them."

The formal consultation on these proposed measures will be launched the spring.

Notes to editors


1. The proposed Code will be based on the existing Industry Framework Code but will be strengthened to include an overarching 'fair dealing' provision, and also the principle referring to the beer tie which states that 'a tied licensee should be no worse off than a free-of-tie-licensee'. This will be particularly important for rents, as the consultation will propose that guidance issued by the Royal Institute of Chartered Surveyors be interpreted in light of this principle.
2. The proposed Adjudicator will be based on the model of the widely-welcomed Groceries Code Adjudicator, and will have the power and function to:
 - arbitrate individual disputes between large pub companies and publicans
 - carry out investigations based on complaints that have been received, during which they could require information from pub companies
 - impose sanctions where an investigation finds that a pub company has breached the Code – including, in the case of severe breaches, financial penalties
 - publish guidance on when and how investigations will proceed and how these enforcement powers will be used
 - advise pub companies and publicans on the Code
 - report annually on his or her work
 - recommend changes to the Code
3. The Code is expected to apply to all pub companies which own more than 500 tied leases, exempting smaller companies so that only those with the greatest market power are targeted. This is due to evidence indicating that smaller companies have been behaving responsibly, although this will be explored further during the consultation.
4. Concerns about the relationship between pubcos and publicans have been raised by the pub industry for many years, with BIS Select Committee Reports highlighting the issue continuously since 2009. In 2011 the Committee recommended that the Government implement a binding industry Code and establish a Code Adjudicator. In November 2011 the Government announced a self regulatory approach, with the Code being brought into legal contracts and the industry establishing an independent arbitrator and advisory services.
5. The independent arbitration service appears to be working well, with two of the three cases heard so far finding against the pubcos. Version 5 of the Industry Framework Code was incorporated into contracts by the end of 2011.
6. Following further concerns raised by the BIS Select Committee the Secretary of State wrote to the industry to ask for evidence on how well the self-regulatory approach was working. Many responses showed some improvements had been made, but that much more was needed and that the necessary culture change had not taken place.
7. The Code will not mandate, as some campaigners have suggested, a 'free of tie option with open market rent review.' Neither will it abolish the beer tie. Evidence strongly suggests that the tie itself is not the issue- it is in fact a valid business model and its removal would significantly harm the British brewing industry. It is the abuse of the tie in certain circumstances that is causing the problem. The Code will ensure that pub companies use the tie responsibly.
8. The government's economic policy objective is to achieve 'strong, sustainable and balanced growth that is more evenly shared across the country and between industries'. It set four ambitions in the ['Plan for Growth' \(PDF 1.7MB\)](#), published at Budget 2011:
 - To create the most competitive tax system in the G20
 - To make the UK the best place in Europe to start, finance and grow a business
 - To encourage investment and exports as a route to a more balanced economy
 - To create a more educated workforce that is the most flexible in Europe,


Work is underway across government to achieve these ambitions, including progress on more than 250 measures as part of the Growth Review. Developing an Industrial Strategy gives new impetus to this work by providing businesses, investors and the public with more clarity about the long-term direction in which the government wants the economy to travel.

From: <mailto:>
Sent: Tuesday, January 08, 2013 1:21 PM
To: <mailto:>; nant, Ian; Furnival, Ben
Cc: <mailto:>
Subject: Government plans statutory action on pubcos

This has just come through. Do you guys have any further info or insight?

Matt Steinhofel
Membership and Research Manager
Association of Licensed Multiple Retailers
 9b Walpole Court, Ealing, London, W5 5ED
 Tel: <tel:> or Fax <tel:>
 Registered office as above. Registered in England No: 3964186
www.almr.org.uk

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From: M&C Report [<mailto:news@mandcreport-info.co.uk>]
Sent: 08 January 2013 13:16
To: msteinhofel@almr.org.uk
Subject: Government plans statutory action on pubcos



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The Government is to consult on establishing a statutory code and adjudicator to regulate the relationship between pub companies and their tenants. *M&C Report's* sister title *Publican's Morning Advertiser* has learnt, writes Adam Pescod

The news comes ahead of Labour's Opposition Day debate on the pubco/tenant issue, which is to take place in the House of Commons tomorrow

It follows a letter sent last month by business secretary Vince Cable to parties involved with the self-regulation deal which was agreed between the Government and the British Beer & Pub Association at the end of 2011

In the letter, Cable said he was considering 'the possible options that are available' adding that 'the changes are not as far-reaching as I would have liked and do not appear to have engendered the culture change that is needed'

Consumer affairs minister Jo Swinson had previously turned down an interview with the *Publican's Morning Advertiser*, sister title to *M&C Report*, on the self-regulation deal, saying that the commitments 'have now been achieved' Cable later denied that the Government was 'washing its hands' of the issue and vowed to look into the matter

The consultation is expected to be launched in the spring

69 Emails, February 2013

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613/593131

[REDACTED] (CCP)**From:** (LEGAL B)**Sent:** 28 February 2013 15:23**To:** (CCP)**Subject:** RE: Definition of pub

Interesting, unfortunately I think we need something in there about the sale of alcohol being the principal purpose or we're going to capture a huge range of restaurants. My main concern is whether our definition as currently proposed would exclude certain gastropubs (or maybe we want them to be excluded?)

From: (CCP)**Sent:** 28 February 2013 14:19**To:** (LEGAL B)**Subject:** FW: Definition of pub

Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET | Direct line: +44(0)20 7215 [REDACTED]@bis.gsi.gov.uk

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From: [mailto:[REDACTED]]**Sent:** 28 February 2013 14:17**To:** Mansfield Iain (CCP)**Subject:** FW: Definition of pub

Further to my earlier email reply on the definition of a pub, please find below from CGA Strategy. I have two observations on this:

- Firstly, there is no standard definition of a pub so by writing your own you are not going to be falling foul of a well established definition or be immediately contradicted
- Secondly, the point of differentiation was always the ability to drink without eating, but many hybrid outlets and modern restaurants now have separate bars, so it is not the sole point of distinction
- Finally, potentially the most problematic or contentious area will be the reference to primary purpose or use, which has a legal meaning as well as a natural one and always causes problems in planning law. If you can avoid using this specific form of words, I would try to do so and I would also refer to the sale and consumption of alcoholic drink "on its own or as an accompaniment with food" (given that the latest stats show 74% pub visits are food related and only 24% are just for drink)

Strategic Affairs Director

Association of Licensed Multiple Retailers
 9B Walpole Court, Ealing Studios, London, W5 5ED
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From:
Sent: 26 February 2013 11:07
To:
Cc:
Subject: RE: Definition of pub

Firstly and I have been over the various places where we would have thought that a definition existed within our work or general circulation, including BBPA; BLRA; Brewers Society; Home Office; APPBG; DCMS etc. to no avail!

Nevertheless in true fashion I hope we can help and to that end I attach below the definition that we worked on with Jonathan Mail at CAMRA last year that does appear in their literature.

"A pub is an establishment where the public can enter without payment, and consume an alcoholic beverage on the premise. The premises primary activity is the sale by retail, and consumption on site, of licensed alcoholic products".

<><><><><><>

Committing the heinous of having another I had worked up a this is as follows that is slightly more scientific perhaps:-

"A 'Public House' is a licensed establishment, to which the public can gain admission without payment, that is entitled to sell by retail alcoholic drinks for consumption on the premise."

Supplementary descriptors

The pub is an openly accessible establishment whose primary offer is selling alcoholic drink on its own or as an accompaniment with food.

The pub has a communal area for consumption of alcoholic drinks

Background thoughts on definition

There is still a level of subjectivity and the most is on the building type and look. Hard-core Pub aficionados believe that the premise is of or similar in design to a dwelling house being that this is the origin from historical study. However the movement over time would place this view in mid-Victorian era. I believe that the Pub is therefore an evolving entity. Thus what one describes as Bars e.g. sites in ground floor commercial premises typified by All Bar One, Wetherspoons are merely styles and

variations on the Pub.

Kind Regards

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From: [redacted] (CCP) [[mailto:\[redacted\]@bis.gsi.gov.uk](mailto:[redacted]@bis.gsi.gov.uk)]
Sent: 19 February 2013 17:02
To: [redacted]
Subject: Definition of pub

Dear [redacted],

I had a couple of quick things which I wondered if I could trouble you about.

Firstly, is there a generally accepted definition of a 'pub' that we could refer to in the consultation? Clearly 'we all know what we mean'; pubs and bars are covered; Chinese restaurants are not and so forth, but is there a standard industry definition? We will probably explore this more in the consultation anyway, but grateful for your views.

Secondly, a small favour, but Reena Lehal, who you may have met, is an intern who's been working on pubs policy with me. During her degree she did a lot of work on socio-economic research and it's an area which she'd be interested in carrying forward to professional life. I know the ALMR does a lot of research (your benchmarking survey, etc.) and I wondered if it would be possible for her to spend a day shadowing with an appropriate team within ALMR. It would also be good experience for her to have a taste of work outside central Government!

Totally appreciate it may not be possible, but if there is an opportunity for her to spend a day that would be much appreciated.

Regards,

[redacted]

[redacted] Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor,
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70 Email about ALMR Benchmarking Report

(CCP)

From: [redacted]
Sent: 28 January 2013 11:39
To: [redacted] (CCP)
Cc: [redacted] (CCP)
Subject: Impact Assessment Evidence
Attachments: Benchmarking Report 2012.pdf

It was good to meet you last week, with Iain, to discuss potential evidence for the consultation impact assessment. I am myself now working through these papers to see if there is anything useful in them to assist with your specific queries and will come back to you with our views, but I wanted to share the raw material with you soonest.

Please find attached a copy of the latest edition of the ALMR Benchmarking Report. This provides an overview of the market and also key operating costs incurred by individual and multiple operators. The calculation of these is used in the determination of rents in the hypothetical model adopted by the pub industry. This will help with your assumptions regarding profitability – it includes information on gross margins, operating costs before rent and cost of sales. It also contains a separate section on rents as well as costs in the tied vs free of tie sector.

I would just point out in respect of that that where we refer to genuine free of tie leases, these are commercial leases between a pub operator and a commercial landlord eg Land Securities, Church of England etc and that in many cases you will get rent free periods, peppercorn rents and equally more onerous UORR clauses and refurbishment requirements; in some cases, commercial rents will be set entirely differently based on square footage rather than turnover. This is a more general point which needs to be borne in mind in the drafting of the consultation document and questions – free of tie leases generally are not directly comparable to tied leases. Free of tie industry leases as exact comparables do exist, but they are rare

An alternative approach would be to look at the amount of turnover which is shared between landlord and lessee. I believe that Enterprise has published some calculations on this <http://www.morningadvertiser.co.uk/General-News/Enterprise-claims-increased-taxation-is-biggest-threat-to-tenant-profitability>. Our own assessment from within our membership, is that the tax take from the average pub is 47% of turnover. The general rule of thumb is a 50:50 share of the divisible balance but it can be anywhere between 30:70 in favour of either side (Brooker case).

I have also been revisiting European Case Law which examined these issues in great detail in the 1990s and may have some useful modelling assumptions. For example, this supports an assessment of roughly 20% of lessees being multiple operators.

The two lead cases were in relation to Bass leases and Whitbread. In the latter case, there were detailed calculations undertaken to determine whether a tied lessee was placed at a disadvantage or not and the value of any rent subsidy. These may provide enforcement principles which could be applied by the Statutory Adjudicator – although the competition authorities accepted that you could only apply generically and not on an individual case basis. This case is probably the origin of the phrase used in by the Minister as an over-arching fairness principle, but you will see that it refers to the tied lessee bearing no greater commercial risk and also compares tied lessees with free trade. Nb this is **not** the same as free of tie leases or lessees, nor is it the same as free of tie licensees – which Ministers also have referred to and which would include free of tie commercial leases as well as free hold properties.

1999/473/EC: Commission Decision of 16 June 1999 relating to a proceeding pursuant to Article 81 of the EC Treaty (Case IV/36.081/F3 - Bass)

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31999D0473:EN:HTML>

Commission Decision of 24 February 1999 relating to Whitbread

<http://eu.vlex.com/vid/proceeding-pursuant-85-case-whitbread-37675630>

Judgement of the Court of First Instance of 21 March 2002 – Competition - Beer Supply Agreements - Individual Exemption (Whitbread)

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61999TJ0131:EN:HTML>

Please come back to me if you have any additional queries and I will come back to you once I have worked my way through additional material.

Kind regards

Strategic Affairs Director

Association of Licensed Multiple Retailers
9B Walpole Court, Ealing Studios, London, W5 5ED
Tel:

Registered office as above. Registered in England No: 3964186

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From: (CCP) [mailto: @bis.gsi.gov.uk]
Sent: 28 January 2013 11:02
To:
Cc: Ravenscroft James (CCP)
Subject: RE: Pubcos and Licensees: Secretary of State call for evidence

No problem - I've copied him in.

Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET | Direct line: +44(0)20 7215

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From:
Sent: 28 January 2013 11:01
To:
Subject: RE: Pubcos and Licensees: Secretary of State call for evidence

Apologies, but I have mislaid your colleague's contact details from our meeting last week and wanted to go back to him with information for the impact assessment. Please could you send me his email address.

Kind regards

Strategic Affairs Director

Association of Licensed Multiple Retailers
9B Walpole Court, Ealing Studios, London, W5 5ED
Tel:

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From: (CCP) [mailto: @bis.gsi.gov.uk]
Sent: 25 January 2013 12:31
To:

71 Emails, November 2012 – January 2013

(CCP)

307
013/669566

From: siclarq
Sent: 05 January 2013 18:13
To: (CCP)
Cc: (CCP); (CCP); (CCP)
Subject: Re: Pub Industry

Thanks for meeting me on Friday, if I recall I said I would send you a couple of odds and ends.

I will send you individual emails covering each subject.

First - you mentioned your interest in 'mid term' rent reviews. As I outlined most lease and tenancy agreements have a periodic rent review, usually - but not always - 5 yearly. Whilst not a BBPA Framework Code provision, in the event of financial difficulties, some pub companies and brewers have written into their company codes that they will consider a mid term review.

Below an extract from Enterprise Inns code ;

Similarly, if you experience financial difficulties at any time during your tenure, you should inform your Regional Manager of your circumstances as early as possible. In order that we may fully assess your situation, you will be expected to provide detailed information and disclosure from which we will aim to devise an appropriate action plan as quickly as possible. We will confirm to you, in writing, the detailed information that we require and the timescale to which we will aim to respond to you. Our response may be to propose an adjustment to your rent or the discounts applied to tied supplies. Such adjustment, which may be temporary and personal, will be designed to assist you through the period of financial difficulty and may be conditional upon the implementation of specific actions designed to improve the operational performance and/or financial controls of the business. If there has been a material and permanent detrimental change to your business, caused by circumstances which are outside of your control, then such adjustment may at our discretion be applied until the next cyclical rent review by deed of variation or by way of an entirely new agreement.

In practical terms it is difficult to achieve a rent reduction or discount on tied product prices, the review is discretionary. More often than not the tenant is offered a series of other purported 'support' items - see the email thread below.

— Forwarded Message —

From: vadee shumoogam
To: vadee shumoogam
Sent: Monday, 17 September 2012, 15:24
Subject: RE:

Dear Vadee,

Re: Your request for assistance.

The Company needs to gain a full understanding of the operational and financial issues that are currently affecting your business. To that end, I would be grateful if you post me the following information for our confidential use and analysis:

1. Your last 4 VAT returns
2. Your last 3 years Accounts
3. Your last 4 Stocktake Reports
4. A current Overhead Cost Schedule for the business
5. The current Bar and Food Price lists
6. Your Original Business Plan
7. An analysis of the competitor pubs in the area
8. Details of your last 6 months Business Building Activity.

Once I have reviewed the above information with Richard Ullman, I will arrange to visit you to discuss the

30/05/2013

range of options that may exist to support your business. Such options may include one or more of the following:

1. Access to training, promotions and food development
2. Support from our brand suppliers, not just in promoting their brands, but in enhancing retail standards and customers' first impressions
3. Access to accountants to advise of such issues as financial controls, margin management and maximising profits
4. Access to energy specialists who could review your current utility contracts to ensure they are competitive and provide advice on efficiencies and savings.

Should you have any queries on the above, please contact me. Otherwise I look forward to hearing from you ,

Regards

Right-click here to download pictures. To help protect your privacy, Outlook prevented automatic download of this picture from the Internet.
 Description:
 cid:image001.ipa@01CC1543.39

Regional Manager

M.
F.

Having supplied the information the lessee received this ;

— Forwarded Message —

From: [redacted] <[redacted]@enterpriseinns.com>
 To: [redacted] <[redacted]@enterpriseinns.com>
 Cc: [redacted] <[redacted]@enterpriseinns.com>; [redacted] <[redacted]@enterpriseinns.com>
 Sent: Friday, 23 November 2012, 18:58
 Subject: FW: [redacted] Solar Panels Terms and Conditions

Dear Vadee,

It is felt that you should have obtained our permission as landlord, before installing the solar panels.

Enterprise Inns reserve the right to retain income when publicans use our property to do this.

It is also a permanent fixture so you need our approval to install. Also there may be the case that you need a Licence to Alter .

You appear to be benefiting from reduced electricity costs and an income from the surplus generated but not used being sold.

Can you please give us information as to the income that you have been receiving or costs that you have saved please?

Furthermore, you are likely to be held responsible for costs in rectifying the matter.

Please confirm the date of installation

Thanks

Truth is the lessee probably did need consent to fit the panels. There has been no mention of them until he asked for assistance - needless to say they have received no further comment on their assistance request.

72 Reply to blogs, forwarded to BIS

(4)

308 ✓

Interesting posts and only a little abuse.

The old cliché is that we study history so as not to repeat the mistakes of the past. When Government last intervened in the sector licensees were not on three year tenancies by the way they were on agreements with no security but had three year rent reviews. One of the reasons for legislation was to ensure UK Publicans came under the protection of the Landlord and Tenant Act-Fact the majority of pubs today are let on agreements contracted out of the Act giving those coming into the industry no protection, no rights to renewal, and the ability for the Landlord to give 6 months notice because they don't like the colour of their shoes! Did the legislation fulfil one of its major objectives an indisputable no is the answer.

Whitbread tenants at the time were really looking forward to being free of tie but what happened? They awoke one morning to learn that they now belonged to a new 'Pub Company' Scorpio, Discovery and others run by guess who? Former Whitbread Directors and fully tied to guess who? Come on have a go? Yep Whitbread. The Bass Lease had a guest beer right but Section 6 of its agreement only allowed this if the landlord was a brewery. Hugh Osmond's bright lawyers must have spotted this and Punch became massively more profitable overnight as having bought the company they removed the guest beer and reintroduced the tie much to the despair of thousands of Bass Lessees.

So in essence my warning is be careful what you wish for by government intervention for without it we would never have seen the rise of two pub companies-Enterprise and Punch controlling a third of the market place.

Now let's play 'Fantasy Pub Co Mogul' you have made millions and you are certainly not going to give it away. What do you do? Firstly you obtain the best advice money can buy.

If you have to offer your licensees a free of tie option at rent review how do you get around this?

1. Make sure your standard agreement has no rights to a rent review. NB already in place.
2. Do not invest in any sites with a potential rent review to release the tie.
3. Stop offering business support to licensees in trouble unless they agree to change agreements to ones with no rent review.
4. Identify those wet led pubs that make a site far more valuable tied than free and sell them to a regional or family brewer. This is not from my experience something people enjoy. As BII members have discovered the rent is set in stone but there is nothing in their agreements re price and choice. So the rent stays the same but you have less beers to choose from and all at higher prices than you were paying-Fact the only comfort is that Family Brewers will hopefully ensure in terms of price that their new tenant is no worse off.
5. Identify those small volume outlets who are approaching rent review and if a major reduction looks likely release the tie and reintroduce the upwards only terms of the agreement and by posing the daunting threat of 'Arbitration' actually produce an increase in the figure. When rents are tumbling how does a major 'free of tie' Pub Company produce an annual increase of 7% explain

that someone? Mark fair points but would life be better for Punch licensees in administration? I have an HMV voucher on my bookshelf which indicates it may well not be!

Incidentally having said I was talking rubbish about tied tenants not been subject to upwards only rent reviews. I note six months later you still have not managed to come up with one example to support your views? Your comments on the PICAS Chairman are without foundation yes he may have done two jobs for Punch in the last twenty years but that does not in anyway affect his impartiality, integrity or his determination to ensure fair treatment in the sector. Look at the track record talk to licensees he has represented in the past.

PICAS set up by ALMR FLVA GMV BII and yes BBPA allows massive flexibility in enabling licenses with a grievance to take their complaint for £200 + VAT. It also ensures that the Pub Co cannot involve its lawyers unless the license chooses to be legally represented. I have tried in the last ten years to complain to the 'Statutory Regulator about my bank and Ryanair the experience has not left me with the confidence that what is proposed may turn out to be an improvement.

I accept that many of our BII members would love to be free of tie and frankly could not care if their Pub Co went bust. Twenty years ago licensees thought Government intervention would result in changes they had only dared to dream about. The reality was something rather different.

So a warning from history be careful what you wish for?

Phil

73 Emails, January 2013

(CCP)

309

From: (CCP)
Sent: 23 January 2013 14:24
To: (CCP) [REDACTED]
Subject: FW: PUBS - TIED LICENSEE NO WORSE OFF.....
 Ancient beer report by the Monopolies Commission, if helpful.

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 Victoria Street, SW1H 0ET | Direct line: +44(0)20 7033 3000

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From: sidclark@ [REDACTED]
Sent: 23 January 2013 10:57
To: (CCP)
Subject: Re: PUBS - TIED LICENSEE NO WORSE OFF.....

Please convey our thanks to the Minister for her time yesterday. It was always going to be a tricky task covering topics whilst fielding 12 or so participants but I hope we collectively gave a useful contribution to the Ministers thinking.

A few things sprung up which will probably be covered in consultation.

One thing mentioned by Mike Benner of CAMRA was that the brewery tenancy model has been around for many years. This of course is not disputed but what needs to be understood is that it has been distorted beyond recognition. If you look at the link below (another indication that we have been wrestling with the beer tie for almost as long as it has existed !) page 142 Appendix 6 - you will see that there was barely any price differential between tied and free of tie price, this is the fundamental difference between brewery tenancy models of old and what we see today.

<http://www.official-documents.gov.uk/document/hc6869/hc02/0216/0216.pdf>

I also thought it worth mentioning, just to be clear, that the position on a 'limit' may seem disjointed. IPC came up with a Manifesto position that pub owning companies operating more than 500 tied agreements should offer a rent only option (free of tie) with an open market rent. We anticipated that a pub owning companies should be bound to a code of some sort, preferably statutory. Whilst this may hold true, what I understand we are now being asked is who should be bound by the statutory code, the concern is that if 500 remains the limit many will fall outside the limit and it becomes open to being gamed by splitting up companies to avoid compliance.

Our 500 came from a legal root (happy to expand) and it may be worth asking participants in consultation the foundation of their respective views, e.g. Bill mentioned 100 - not that I am arguing - but for what reason ?

If any queries sprung from our meeting I would be pleased to provide further information or views should you require.

Simon

-----Original Message-----

To: siclarke [REDACTED]
Sent: Tue, 22 Jan 2013 10:54
Subject: RE: PUBS - TIED LICENSEE NO WORSE OFF.....

Simon,

Thank you very much for this and for the helpful discussion yesterday. I look forward to seeing you later today.

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From: siclarke [REDACTED]
Sent: 22 January 2013 10:24
To: [REDACTED]
Subject: PUBS - TIED LICENSEE NO WORSE OFF.....

Please find attached as requested the much simplified 'model' we discussed during our meeting yesterday.

I have shaded the boxes you might like to vary to consider various outcomes.

Variations upon this model and spreadsheet are what I often use, with the benefit of a licensee's accounts and stock takes as inputs, to establish what a licensee can 'afford' although personal accounts and stocktakes are not necessarily the foundation for open market rental value. We should be starting from a position of the reasonably efficient operator (REO) who of course may be under or over trading when compared to the actual personal accounts of the licensee (that's where comparables and benchmarking come in).

Happy to come in and discuss this specifically in more detail if you need to.

SIMON
07850 319257

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74 Emails, February 2013

(CCP)

From: (CCP)
Sent: 06 February 2013 16:10
To: 'siclarke' (CCP)
Subject: RE: Pubs: a question on beer prices
Follow Up Flag: Follow up
Flag Status: Orange

Simon,

25th Feb would work well. A thought: both James and I live in south London and so, if you wanted to make the meeting 5pm at the Eagle, we would be happy to come to you. Would be interesting to see your pub! If you'd prefer to meet at BIS, that's totally fine of course also.

On your second paragraph, Ministers have been very clear that they support the OFT's finding that there are no competition issues in the market - the Government's proposed intervention is quite clearly not on competition grounds but on grounds of fairness and long-term support for publicans and a sustainable pubs industry. Any evidence you might have of price fixing or cartels (which would be illegal), which the Government has seen no evidence of to date, should be reported to the OFT as the independent competition authority. Sorry to appear to emphasise this point, but it is an important one legally speaking.

Look forward to seeing you and (assuming he's free) Steve on 25th.

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From: siclarke
Sent: 06 February 2013 13:12
To: (CCP)
Subject: Re: Pubs: a question on beer prices

Absolutely an issue for the consultation - the ability to alter the price to a captive means what we achieve in fair rents could be undermined by product prices the next day.

Can we do the 25th ? I am on holiday until the 24th. As you know I have have broad knowledge and understanding on most pub related topics but I would certainly bow to Steve's expertise in the area of barrel price, possible price fixing and the relationship between brewers and pubcos, which some might describe as cartel like behavior.

S

-----Original Message-----

From: [redacted] (CCP) <

To: siclarke <siclarke@...> (CCP) <j...>

Sent: Wed, 6 Feb 2013 10:53

Subject: RE: Pubs: a question on beer prices

Simon,

Thank you - this was extremely helpful and detailed email. I think this does give me enough information for now - i.e. it's clearly an issue that we need to cover in the consultation.

Would you be able to come in on w/c 18th or 25th February to discuss this, and some other matters further? I'm suggesting then because we're making some progress at the moment on the consultation and IA and suspect that by then we'll likely have a few further questions. Very happy for you to bring Steve or another IPC member with you.

Regards,

P.S. To note [redacted] email [redacted] (with an n).

[redacted] | Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor,
1 Victoria Street, SW1H 0ET | Direct line: +44 [redacted]

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From: siclarke
Sent: 04 February 2013 14:29
To: [redacted] (CCP); [redacted]
Subject: Pubs: a question on beer prices

Dear [redacted],

I'll try and keep it short and clear, and I leave it to you to decide whether to share this with Brigid.

Rent reviews are typically 5 yearly. In addition to this cyclical review, the rent, in most cases, is increased by inflation every year - regardless of sales and profitability of the individual pub (which is of course part of the problem as rents in pubs should relate to profitability not inflation).

The price of tied products can be varied at any time - there may be more than one increase every year, invariably there is a brewers increase every January and another in April at the budget as a bare minimum, both of which can have an extra bit 'tagged on' to the brewer or tax increase. The rent is not varied on product price increase until the next cyclical (5 yearly) review. So the quick answer is YES the tied price can be varied the day after a rent is established. There is nothing to stop a pub company from extracting their required profit through tied product prices if rents are set fairly as the tenant has to purchase from them at the pubco desired price. At the moment they are able to extract their desired return through numerous income streams, the main two being by manipulation of rent and tied product prices. If we solved the rent issue we still have the product price issue which is why the FOT option is needed to act as a deterrent to tied product price abuse.

There is nothing in contracts (or the Code) that regulates tied product price or prevents pub owning company from raising the beer prices at any time, this is the 'loophole' that has been identified and used by pub owning companies following the Beer Orders resulting in the wide discrepancy between tied and FOT prices (you will recall from what I sent you before, in the MMC report 1969, tied and free of tie product prices were practically the same, that is because then it was about brewers distribution of product - volume sales, expansion, growth and brand

recognition - now it is used as a tool to over inflate tied product prices to extract a higher level of profit from a diminishing demand - which is further diminished by an increase in price).

As far as I know, the beer prices can be changed at any time, there are no certain clearly defined circumstances in the agreement regulating this.

Can the pubco change the beer price it sells to pub without changing any of the others ? I'm not sure what you mean here - do you mean can they alter the price to an individual pub and not say the pub next door which is also in their ownership ? Brewers could increase the price to a tied house and not their managed house next door. Pubco's, like Enterprise, have acquired many smaller pub companies and so have inherited many differing pricing structures and various levels of discount off the pubcos inflated price list (which are pounds per barrel rather than a percentage - so a discount of say £40 a barrel 10 years ago may have been the equivalent of 50% discount off the inflated tied price back then- but is only a nominal discount of 10% now - hence the problem with FOT price matching being offered today, the benefit diminishes with time.) As I understand it, pubco's now have a common 'wholesale' price list to all their licensees (there used to be several), this price list in some cases is around 100% more than free of tie wholesale prices, and various levels of discount apply off THEIR list to different licensees. Some get no discount, some, very few, get a discount which is purported to be equivalent to free of tie pricing now - but as mentioned earlier will not be in a years time.

There are no constraints on pricing behavior and as a pubco/brewer licensee is 'tied' they are effectively a captive to the whims of the pub owning company for the duration of the lease or tenancy term. The tied agreement permits behavior that would otherwise be considered anti competitive. A rent agreed today with an accompanying given tied product price list may leave a tenant with a known return assuming all stays equal BUT with rents increasing by inflation and tied product price increases outstripping inflation the tenants return diminishes with time.

I would be interested to discuss this in more detail with you as it appears you may be considering a number of options, possibly including regulating tied product prices or interim rent reviews to coincide with price increases, all of which need expanding upon as there are practicality issues and dangers, not least the possibility of increasing price fixing opportunities.

Please find attached an extract from Stephen Corbetts submission to Select Committee 2011 that was not published - it needs a little up dating but you might like to consider bringing him into this discussion as I know he has wealth of background knowledge and information.

Simon

-----Original Message-----

From: [redacted] (CCP)
 To: Brigid Simmonds <[redacted]>
 CC: [redacted] (CCP)
 Sent: Fri, 1 Feb 2013 9:58
 Subject: Pubs: a question on beer prices

Dear Brigid/Simon,

Apologies for emailing you together - I'd be interested in both of your views on this but please feel free to reply to me alone if you'd prefer.

We are trying to understand exactly how tied beer pricing works in contracts at the moment. Suppose a rent review takes place and a licensee agrees X rent and to buy beer at prices A/B/C per barrel for each beer.

The rent can clearly only be changed at the next rent review (or using inflation etc.). However, is there anything in contracts (or the Code) that prevents the pub company from raising the beer prices to A+100/B+100/C+100 the next day? Can the beer prices only be changed at rent reviews (or under certain clearly defined circumstances such as an increase in the wholesale price?). Can the pubco change the beer price it sells to pub without changing any of the others? If you could indicate what constraints there are currently on that sort of behaviour that would be very much appreciated.

Regards,

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75 Letter from IPC to Vince Cable



311

0131656157

**104 Chatham Road
Battersea
London
SW11 6HG
Tel : 07850 319257
email : siclarke@aol.com**

Rt Hon Vince Cable MP
Department for Business Innovations and Skills
1 Victoria Street
London
SW1H 0ET

22nd November 2012

Dear Dr Cable

RE: SELF REGULATION AND INDUSTRY AND COMPANY CODES

I refer to your call for evidence outlined in your letter to Rodger Vickers dated 7th November 2012.

I am Campaign Manager and Secretary to the Independent Pubs Confederation (IPC) and met with Jane Swift and Faith Quigley on the 21st November 2012 to discuss the pub industry reforms.

As I am sure you can appreciate there was much information to convey and following Mrs Swift's inquiries, particularly in respect of Tenants access to information and rents, I promised to submit additional information specifically in this regard as it may form the foundation of meaningful progress of some of the much needed reforms.

The Challenge

In answering questions to the Select Committee, on the 6th December 2011, Mr Davey stated an area he was particularly interested in was **rents** (Q121). I consider Mr Davey had grasped the importance of sustainable rents that reflected the circumstances and profitability of being tied. This combined with the Government Response statement that *"..... there is the right balance of risk and reward in the relationship, and whether the licensee has access to the information that they need to enable them to make sound commercial decisions and resolve disputes fairly and satisfactorily."* leads me to believe there is an expectation that progress could be made in this regard that would benefit the industry as a whole.

There are only a few key factors needed to deliver reform in this regard.

1. Appropriate RICS Guidance

Acceptance of the principle that the tied tenant should be no better (or worse off) than they would be if they were free of tie. The effect of over inflated tied product prices, over and above the free of tie price, needs to be properly reflected in the tied rent calculation.

I quote from the BBPA report to BISCOM, October 2011, *"The association between rent and beer prices is not coincidental, it is fundamental to the operation of the Tie where reductions in rent are directly associated with higher beer prices"*. In view of the latter, it seems there is no argument

that higher beer prices to tied tenants results in a lower rent and the higher the price, the lower the rent. It follows that a point must come where if beer prices are high enough the rent would be NIL. I believe with tied beer prices falsely inflated, in many cases, to almost double that available on the open free of tie market, we are close to a point where the rent should be *de minimus* in order to fairly reflect that disadvantage. The pub companies have essentially chosen to take practically the whole of their share of a pubs profits in profit on tied products, abuse of rental valuations is allowing them to take a proportion of remaining profit, that should be due to the tenant, in the form of rents.

The Royal Institution of Chartered Surveyors (RICS) confirmed in 2009 that, if followed correctly, their existing rent assessment guidance should result in a situation where the tied tenant is no worse off. The RICS, following Select Committee recommendation revised their guidance in 2010 the hope it would be clearer as the Id guidance was being manipulated and abused. David Rusholme, Valuation Director at the RICS, stated at the BISCUM 2010-12 (para 65 in the tenth report of sessions 2010-12 Volume I) that they had now put firm guidance in place in this regard. A subsequent witness, Ted Tuppen, CEO at Enterprise Inns, stated that no where in the revised RICS guidance did it state that a tied tenant should be no worse off than if they were free of tie. The BISCUM concluded there was still confusion within the industry over the interpretation of RICS guidance. RICS have refused, despite repeated written requests and a polite suggestion from BIS by Mr Iain Mansfield, to clarify this confusion. I believe the stumbling block here is surveyors with clear conflicts of interest influencing the RICS decision making process e.g. Rob May, National Rent Controller for Enterprise Inns is a member, and former chairman, of the Trade Related Valuations Group (TRVG) that are blocking progress. There is no representative on that group specifically representing Tenants interests at large yet there is one member representing the interests of one company.

What RICS guidance does say explicitly, at 7.18, is ;

"The supply tied lessee, aside from paying property rent and in some cases a share of machine income, also pays the wholesale prices of the supplying landlord, which are usually higher than those the lessee would pay in the open market. The tenant may compare its own property with the circumstances of being free of a supply tie and consider the profit achievable under those circumstances."

IPC suggested to the BBPA that all future rent assessments (shadow profit and loss calculations) should have a 'mirror' calculation, demonstrating what a tenant might expect to earn from a particular pub if they were free of tie. On establishing the rent and prospective Tenants likely earning, free of tie, the Tenant would then be furnished with some of the information "...that they need to enable them to make sound commercial decisions and resolve disputes fairly and satisfactorily." Basically they would see how much is lost in over inflated tied product prices make an informed rental bid for a tied pub accordingly. This suggestion has been refused by the BBPA.

I attach as an Appendix two spreadsheets, 'PRESENT', the information similar to that Tenants receive from pub owning companies now, a tied calculation and 'PROPOSED' I have added to the usual calculation columns showing the same calculation but free of tie. Both case law and RICS guidance require that a valuer should consider that a Tenant seeing their profitability and circumstances free of tie, i.e. that they could earn £41,800 free of tie, paying an equal rent, would give this consideration before making their rental offer for a tied agreement. In this example the tenant might offer a tied rent reflecting 32% of the net profit before rent (divisible balance), which oddly enough is almost exactly the same as the judge determined in the case of *Brooker v Unique Properties Ltd*.

2. Independence and impartiality of chartered surveyors

The *Brooker* case mentioned above is the closest we have ever come to having rent assessment conducted in the appropriate manner and I believe it is no coincidence that this was the determination of a judge and not a surveyor.

The area of pub rent assessment is a specialist and small field, there are comparatively few surveyors active in this specific area, those that are invariably act or have acted for the pub

companies and brewers. I have already made reference to the TRVG within the RICS, many of its members have questionable conflicts of interest, which I would be pleased to expand upon if required.

Rodger Vickers, the only chartered surveyor in the new, BBPA funded, Pubs Independent Conciliation and Arbitration Service (PICAS) and chairman of the complaints panel, has refused to give his interpretation of what the RICS guidance seeks to achieve in regard to the tied tenant being no worse off than a free of tie tenant. This is a simple enough question - does Mr Vickers consider the RICS guidance satisfies the acid test of success in the eyes of BISCO 2010-12 in providing clarity on valuations and the principle that a tied tenant should be no worse off than a free of tie tenant? It is only after Mr Vickers confirms that this clarity has been achieved that a complaint to PICAS in respect of a failure of a pubco to follow the RICS guidance can be considered. Mr Vickers is known to act for Punch Taverns against tied tenants, George Scott and David Mountford (GMB representative) being only two.

I now turn to the Pubs Independent Rent Review Service (PIRRS), another pub company funded operation. If you are a tied tenant in London you are able to select one of five surveyors.

1. William Cuthbert, Fleurets, is acting against me right now in the Eagle Ale House rent review.
2. Dan MacKernan, Davis Coffey Lyons, the firm that acted as Arbitrators at the last Eagle rent review and were subsequently reprimanded by the RICS for failing to disclose conflicts of interest, they were acting for my landlord, Enterprise Inns.
3. John Spacey, Porters, appointed by the RICS to act as an Independent Third Party Expert, at the current Eagle rent review and subsequently retired after I established and revealed, despite claiming no conflicts of interest, he had a number of current Enterprise Inns instructions at the time of appointment.
4. Tony Hunter, Savills. I am advised by my business partner, David Morgan, a surveyor with around 40 years experience, that Savills had specific instructions from Enterprise Inns, have sold properties for Enterprise Inns, have advised on rent levels for properties for Enterprise Inns where they are in negotiation with Lessees and that Mr Hunter personally has acted for and submitted reports for rent review determination to an Independent expert for, Enterprise Inns.
5. Howard Day, Harper Dennis Hobbs, who may well be the only surveyor on the list who can claim to be independent and impartial.

The point I make here is, as a chartered surveyor, specialist in licensed premises, I am in a unique position to know the background of all these surveyors, a standard tenant is not. 80% of the surveyors on offer through PIRRS would appear to be in highly conflicted positions that must negate their claims that they are impartial or independent.

3. Access to information

The spreadsheet, Appendix A, is the information delivered by the pub company to 'justify' their rent assessment. whilst it demonstrates a grasp of arithmetic, in reality it proves nothing and certainly does not justify a rent. In order to make this calculation meaningful it requires evidence. Typically a pub company seek to use the Tenants actual performance (either accounts or barrellage information), particularly if they are over trading, as a justification of rent. Tenants actual trading performance prove what a tenant can afford **not** 'open market rental value' and as tenants goodwill and any effect of tenants occupation are to be disregarded, under the terms of the lease in rent assessment calculation, this actual performance should not be the foundation of a rent assessment. What valuers are required to undertake is an assessment of a pubs trading potential (be it good or bad) under the management of a 'reasonably efficient operator'. This requires comparable evidence of other similar pubs trading performance. To use a simple example, if you were considering the value of your car you would compare it to the recent sales of other like cars and perhaps use subjective adjustments to reflect differing mileage, colour or service history. The fact your car is silver, with 32,000 miles on the clock and regularly serviced, does not in itself dictate its value, it is simply a statement of facts on which to compare it against others.

Detailed comparable information is still denied to tenants as I can attest. I have been asking Enterprise Inns to supply comparable evidence in respect of my rent review since November 2010. Only after 19 months have they supplied anything at all and even then it is incomplete, effectively a

list of sale prices of different models of cars with no details of mileage, service history, condition or modifications, useless.

Absence of this essential information has led to a false level of tied rents fuelled by lack of knowledge without it the rebalancing of rents can not take place.

CONCLUSION

A combination of clear RICS guidance, a legally commitment by pub owning companies to follow it and require their appointed surveyors to do likewise and delivery of access to the much needed information may assist in enabling tenants to start making sound commercial decisions and thereby encourage fair and satisfactorily dispute resolution. The latter, taken together should have the effect of rebalancing risk and reward in the relationship and restraining a landlord from taking more than an appropriate amount of a pubs profits.

I appreciate this is a one off submission on a specific subject, however, Mrs Swift was looking for something that might be the basis of at least some common ground between the parties and whilst it may not solve all the industry's problems properly implemented reforms in this regard may constitute actual meaningful progress.

- Clear acknowledgement in the Framework Code that the tied tenant should not be worse, or better off, than a free of tie tenant.
- Clarification of RICS rent assessment guidance to avoid confused interpretation.
- A tied rent assessment including a free of tie 'mirror' calculation.
- A truly independent dispute resolution service.
- Full justification of rent assessments with access to comparable evidence information.

I would be pleased to present on the issues raised above in more detail, present further information or answer questions should you have any.

Yours sincerely

SIMON J CLARKE

PUB RENT REVIEW ASSESSMENT

Estimated FMT volume of 250

Turnover

Beers, Ciders, FAB's

Draft lager	55.3	19.9%
ale keg	12.5	4.5%
ale cask	121.3	43.6%
cider	11.1	4.0%
Packaged beer	7.0	2.5%
cider	3.3	1.2%
FAB's	0.0	0.0%
Wines	0.0	0.0%
Spirits	17.5	6.3%
Minerals	22.5	8.1%
Food	20.6	7.4%
Accommodation	7.0	2.5%
Other	0.0	0.0%
Wastage	0.0	0.0%
Gross Margin	278.1	100.0%

Beers, Ciders, FAB's

Draft lager	25.9	46.8%
ale keg	6.0	47.6%
ale cask	58.8	48.5%
cider	7.8	69.9%
Packaged beer	3.7	52.5%
cider	2.2	64.7%
FAB's	0.0	0.0%
Wines	11.9	68.1%
Spirits	18.2	81.0%
Minerals	15.8	81.4%
Food	3.5	51.0%
Accommodation	0.0	0.0%
Other	0.0	0.0%
Wastage	-0.4	
Total Gross Margin	154.3	55.5%

Overheads

Self	47.3	17.0%
Business Rates	7.2	2.6%
Utilities	7.0	2.5%
Repairs and Maintenance	4.2	1.5%
Insurance	1.7	0.6%
Entertainment	0.8	0.3%
Interest	2.5	0.9%
Other	22.5	8.1%
Total Overheads	93.2	33.5%

PUBCO ASSESSMENT OF RENT BASED ON A 50:50 SPLIT OF THE REMAINING NET PROFIT

Lessee investment disregard	0
Divisible Balance	61.2
Rent Proposal	30.6
Estimated Tenants Profit	61.2

This is what tenants are generally faced with today but does not properly reflect that profits have already been taken out in the form of tied product prices

76 Email from IPC

312

013/656165

) (CCP)

From: McLynchy Julie (CCP)
Sent: 29 May 2013 15:04
To: (CCP)
Subject: FW: PUBS - SELF REGUALTION AND CODES - BBPA / IPC MEETING
Attachments: INDEPENDENT PUB CONFEDERATION bis report Dec 2012.doc

From: (CCP)
Sent: 03 January 2013 10:26
To: McLynchy Julie (CCP)
Subject: FW: PUBS - SELF REGUALTION AND CODES - BBPA / IPC MEETING

| Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1
 Victoria Street, SW1H 0ET | Direct line: +44(0)20 7

The Department for Business, Innovation & Skills (BIS) is making a difference by supporting sustained growth and higher skills across the economy.

BIS: Working together for growth

From: siclarke
Sent: 21 December 2012 13:35
To: (CCP)
Cc: (CCP)
Subject: PUBS - SELF REGUALTION AND CODES - BBPA / IPC MEETING

Dear

Please find attached as promised a report on the meeting recently held between IPC and BBPA.

There were mixed emotions on the content of the meeting and indeed the likely outcome, some thought the meeting was a box ticking exercise to placate BIS, given the time elapsed between meetings, however we sought to provide constructive criticism. We were told this was not a fair a complis and as such sought offer some suggestions which, whilst unlikely to result in a FC agreement, would perhaps enable the parties to put the distraction of the code to one side and allow the main issues to be properly considered.

Should you have any queries please let me know.

Regards.

SIMON

 This email was received from the INTERNET.

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Rt Hon Vince Cable MP
Department for Business Innovations and Skills
1 Victoria Street
London
SW1H 0ET

20th December 2012

Dear Dr Cable

SELF REGULATION AND PUB INDUSTRY FRAMEWORK CODE

As promised a report following IPC's meeting with BBPA last Tuesday (18th Dec 2012). I am unable to give you full details as we assured BBPA that we would not circulate their Framework Code (FC) draft V6. I am hopeful the summary below will offer you sufficient food for thought.

BBPA circulated their FC V6 (dated August 2012) before the meeting offering IPC members the opportunity to consider its contents. A further revision has been produced, prior to our meeting, which we have yet to see. I believe it is fair to say that whilst considerable work looks to have gone into altering the presentation and wording (making for a clearer, if bulkier, document) there is nothing significant contained within the latest version that was not outlined in the initial 'round table' meeting in February 2012, with the BII and FLVA present. This February draft presentation was a progression, all be it modest, on V5, in the sense that it incorporated the PICA service and sought to clarify legality of the FC.

It is difficult to compare this draft with V5 as the numbering and layout are different. Many areas, written in red, are simply rewording of existing wording and not 'new' per se. There is more clarity but all the wording in 'red' should not necessarily be seen as new provisions, rather amended ones.

The main change is a split between tenanted and leased code provisions and it seems that the main difference is that some of the new administrative provisions, placed upon pub owning companies operating leased estates, are not a requirement upon those running tenanted estates, e.g. those operating 'leased' estates of more than 100 pubs will have to come up with an annual statement of compliance those with 'tenanted' do not.

LEGALITY

It would seem the concerns, and confusion, over the legality of the code have been considered by the BBPA and cosignatories. The FC is to be made available through a deed of variation which IPC hope will assist in over coming the questionability of codes legality for existing lessees and tenants.

RISK AND REWARD

BBPA have made it clear they are not empowered to alter the commercial terms of the landlord and tenant relationship by imposing code provisions upon their members. With the latter in mind, IPC do not consider that the rebalance risk and reward can be achieved by the Framework Code as there is no mechanism which

restrains the pub owning companies from taking more than a fair proportion of a pubs profits. IPC believe that this has been an area of great misinterpretation amongst those considering the progress of self regulation.

It is with the above in mind IPC have asked the BBPA to ensure, in the interests of transparency, that the Introduction to the FC clearly defines what the code seeks to achieve and what it does not. Hopefully this will ensure any reader is under no illusion that the rebalance of risk and reward should not be a FC expectation in its current form and under current circumstances.

It is difficult, given the expectations, to avoid being perceived as negative when commenting upon the FC as little material or meaningful variations seem to have come about. It would be unfair to say there are no changes at all as clarity, assisted by the ALMR, has ensured certain provisions are less likely to suffer possible manipulation and have firmed up existing terms. PICAS is not a great step forward as BIIBAS fulfilled the role before, granted there are now powers of penalty.

I would be pleased to offer a more detailed run down of IPC's views of pros and cons of the revised V6 FC if your require, this may be best presented in a meeting. It may be prudent for BIS to ask for a copy of the FC before we discuss its content in detail.

CONCERNS

IPC greatest concerns remain essentially unchanged. We understand entirely that the FC seeks to address some peripheral problems, and may well be capable of achieving those objectives - time will tell, but the central issues remain relatively untouched.

The FC should not be seen as the 'silver bullet' for the industry, it is unable to deliver the change envisaged, necessary to ensure fairness and open unrestrained competition.

To avoid any misunderstandings in this regard, IPC asked for an open and transparent statement contained in the FC introduction, back in February 2012, outlining that the code seeks to address a number of issues, but not all. This statement was omitted from the new V6 and, as mentioned above, we have once again requested its introduction. We stated it is important that in the first few paragraphs the FC state that there is no provision, or intention, that the code will deliver a rebalance of risk and reward in the form of altering the commercial relationship between landlord and tenant, nothing in the code seeks to place any obligations upon the pub owning company to address the issue of the proportional split of a pubs profit between landlord and tenant.

The FC V6 makes numerous references to the provision of information, indeed I believe the BBPA are hanging their hat on this as a significant step forward. No member of the BBPA team working on the FC is a surveyor or a practicing publican (as far as I know) and therefore I am not sure they fully understand what is meant by sufficient, appropriate and relevant information for the purpose of rent assessment. Contrary to the FC implication a pub company or brewer will always be able to hide behind 'confidentiality' should they chose not to disclose information to the lessee or tenant. At least three IPC member representatives are currently in rent review negotiations and experiencing this exact problem. To be clear, the criticism is not so

much that BBPA members are not disclosing the requested information as, whilst perhaps in their possession, it may not be in their gift to disclose. The criticism is that the FC V6 misleadingly indicates this information will be made available where in fact it may not be possible.

As a result of the above at present neither of the expectations outlined under the heading 'The Challenges' in the Govt Response to BISCOP can be achieved through voluntary codification.

GOVERNING BODY

It would seem the BBPA are still seeking to restrict the membership of the proposed Overarching Governing Body, and thereby maintain power and control over future code variation, under the guise of industry cooperation. IPC were told a Governing Body member must be a nationally constituted body and must confirm acceptance of their FC. The PICAS panel, overseeing code breach complaints, comprises of bodies such as Guild of Master Victuallers (GMV) and Association of Licensed Multiple Retailers (ALMR), neither of which are FC cosignatories, and therefore IPC fail to see why code acceptance should be a prerequisite to Governing Body membership. I understand ALMR are keen to participate in the Governing Body but reluctant to do so if agreeing the to the current version of the FC is a requirement. Like the BBPA's cosignatories, BII and FLVA, ALMR it seems believe the code does not go far enough.

SOLUTIONS

I believe all understand there is no 'quick fix', however, IPC envisage that two important significant steps could assist in rebalancing risk and reward :-

- The provision of free of tie (FOT) and guest beer options, accompanied by a rent capable of independent determination in the event the parties can not agree, at rent review and lease renewal
- Action from the Royal Institution of Chartered Surveyors (RICS) to ensure that the confusion in rent assessment guidance interpretation is clarified. RICS guidance is not mandatory upon surveyor members, however, as has rightly been pointed, the FC requires the compliance with the RICS guidance. If the FC is legally binding then clear guidance from the RICS would have to be adhered to by pub owning companies.

These initiatives are summarised, I would be pleased to add more meat on the bones if required. I merely seek to outline the principles and it should be made clear that they should be operating hand in hand to offer meaningful progress.

At the risk of repeating previous IPC statements, the idea of FOT and guest beer options is to encourage competitive, fair and reasonable terms in tied agreements, to ensure that the circumstances of being tied are appropriately reflected in the rental. We would envisage tied rents being considerably lower than FOT rents in order to compensate the lessee or tenant for higher tied product prices. By so doing a lessee or tenant would be faced with two agreements one tied, with low rent and high product prices, and one FOT, with a higher rent and low FOT product prices. In order to remain attractive, and maintain the tie, pub owning companies would have to ensure that their tied agreements can compete fairly with FOT agreements.

I should add that a FOT option was a BISCO initiative that many tie abolitionist parties came to accept as an appropriate compromise. In the words of the Select Committee chaired by Adrian Bailey :-

"153. Our predecessor's recommendation clearly stated that over a period of time all existing lessees and all new lessees should be offered a free of tie lease with an open market rent review based on RICS guidance (my emphasis) . This recommendation was endorsed by the then Government."

(Business, Innovation and Skills Committee - Tenth Report - Pub Companies)

The provision of information may be capable of delivery through more detailed benchmarking information. Pub companies have access to barrelage information of all their tied pubs and whilst this may not be capable of disclosure in individual cases it can, and used to be, presented to tenants and lessees in the form of area averages. This is a useful tool as it demonstrates the trend in sales mix of tied products and levels of average barrelage sales for a particular area. IPC have suggested the resurrection of this facility.

IPC have outlined to BBPA that if they are able to make clear representations in the document, avoiding any misconception of what their FC seeks to achieve, then it may get a much smoother ride. The parties can then park the FC as a part of regulation that may assist in clearing the 'wood from the trees' leaving the central core issue, that initiated the select committee inquiries, outstanding as requiring alternative mechanisms of resolution.

I hope this is of assistance and would be pleased to expand on anything if required.

Kind regards.

SIMON CLARKE
Independent Pub Confederation
Campaign Manager and Secretary

77 IPC presentation to BIS

**Presentation to
Business Innovations and Skills Department**

**Pub Industry
Self Regulation**

21st November 2012

**By
Independent Pub Confederation
Clive Davenport & Simon Clarke**

3111
Scanned

Vince Cables Letter dated 7 November 2012

- Rodger Vickers - is not chairman of PICAS
- Heading – “***Self Regulation of the Industry Framework and Company Codes***” codes are only a small portion of the self regulation proposal
- Paragraph 1 – The Minister has been asked by BISCO “***how effectively the legally binding form of self regulation which has been put in place is working***”, he states he is “***...keen to ensure that the reforms are in place and operating.***” and asks “***...for a report on the industry's progress in implementing these reforms.***”

Heading

“Self Regulation of the Industry Framework and Company Codes”

The self regulation proposal seeks to address a number of issues one of which is the Industry Framework and Company Codes.

The Government Response identified the key “Challenges” that the self regulatory reforms should seek to resolve **“whether there is the right balance of risk and reward in the relationship, and whether the licensee has access to the information that they need to enable them to make sound commercial decisions and resolve disputes fairly and satisfactorily.”**

The critical issues, raised in the Governments self regulatory response, are outside the codes remit including ;

- Rebalancing risk and reward
- Access to necessary information
- Royal Institution of Chartered Surveyors (RICS), rent assessment guidance

Paragraph 1

There are some quite different issues raised in this paragraph ;

- The legality of the code ?
- Industry agreed ?
- Self regulation implementation ?
- Self regulation effectively working ?

Industry Agreed, Legally Binding Code ?

The Government sought an industry agreed, legally binding 'Framework Code'.

The Framework Code has **NOT** been agreed by the industry. The code was rejected at mediation in 2009 by **nine** industry groups (now IPC) as they recognised it did not represent any “meaningful or material” progress of reform (Ed Davey's expectation). The BBPA inspired Framework Code, despite being on Version 6, remains largely unchanged.

The legally binding nature of the BBPA's code is still in dispute for existing tenants where it is not written into new agreements.

Even the BBPA have opposing legal opinions.

If pub companies ignore outcome of PICAS – what then ? who takes them to court ? - the already financially drained tenant ?

Self Regulation Implementation ?

IPC have been excluded from this process.

Practical experience assists us in providing answers to the four specific questions raised by Dr Cable in his letter. There has been an industry rejected BBPA generated Framework Code since 2009 (mediation). The new version (6) has not yet been released.

Is Self Regulation “effectively” “working” ?

The problems of the industry persist. The 'Challenges' outlined by Government Response have not been met. There has been no rebalancing of risk and reward and there is no access to the information needed to enable tenants to make sound commercial decisions and resolve disputes fairly and satisfactorily

Is the industry making progress in implementing these reforms ?

The reforms offered by the BBPA are being implemented.

The revised code has not yet been published (despite promises it would be in June and implemented in October)

NO PROGRESS HAS BEEN MADE TO ADDRESS THE REFORMS THAT ARE NEEDED TO ADDRESS THE GOVERNMENT RESPONSE 'CHALLENGES'

The four questions (is Self Regulation implemented ?)

Need to be considered against the backdrop that codes are not sufficient on their own. The fundamental issues of material and meaningful concern are not encompassed therein rendering them relatively inconsequential.

- 1) Framework and Company codes refer to PICAS. IPC have been excluded from any development proposals to promote awareness. To be clear IPC do not agree there is any awareness currently to be maintained as few tenants will know what PICAS is.
- 2) Existing tenants 'rights' under the codes have been outlined in a letter sent in December 2011. Company codes are available on the companies individual websites, in some cases the 'links' do not work (<http://www.punchpubs.co.uk/Punch/Punch+Pubs/Retailer+info+and+support/Punch+investment/>). We are aware of no specific improvements introduced in December 2011. IPC have been excluded from the code development process, the last meeting being April 2012. We have proposed Version 6 includes provisions for free of tie options, guest ale rights and machine tie release options. As version 6 not yet been released we are aware of no known further improvements.

The four questions (cont)

3) Accreditation is no measure of fairness, simply compliance with the BBPA's minimum standard Framework Code. The BII have a code accreditation role – BIIBAS. This service also used to handle code breach complaints, it would therefore be wrong to consider PICAS to be a 'new' reform initiative – it simply replaces the BII's service, which was described as ineffective by BISCUM, under a new BBPA funded banner.

IPC have been excluded from this process. The 3 year re-accreditation proposal does not seem to accommodate the reality of what actually happens. Company's have a code accredited and thereafter vary it with additional clauses. The code content is like shifting sand, FC is under constant review, company codes likewise to give the false impression of progress and avoid intervention.

The current accreditation measures seem to allow some company codes through the net, e.g. Enterprise Inns – flowmonitoring (see BISCUM 2010 summary attached)

The four questions (cont)

4) IPC are aware of a Pubs Advisory Service (PAS) introduced by specialists (surveyors and lawyers), who advise tenants, and actual existing tenants, with considerable experience and understanding of the tied tenanted model. Some members of IPC are involved in that new service.

Unlike PICAS and PIRRS, this 'tenants' service has been consciously set up without BBPA and pub company influence, unsurprisingly it is therefore yet to be accepted and promoted by the BBPA and their members.

IPC have been excluded from any discussion concerning BII's leadership of an alternative (PAS).

Is Self Regulation effectively working ?

PICAS – IPC do not agree that PICAS is independent. The first two outcomes Alan Yorke and Russell Stone, both 'won' their case – one now has no pub the other had a 20% increase in rent, rather than over 100%, and his pub is on the market. Neither happy with the PICAS service one describing it as NOT independent, incompetent and impotent.

PIRRS – independence most surveyors heavily conflicted – Rodger Vickers, Punch Taverns surveyor of choice, acted against Dave Mountford, Ed Davey sought a PICAS panel vice chair to 'balance' – IPC not consulted on any of the appointments. ALMR and GMV representatives involved in process but neither are surveyors they would not know of possible conflicts.

Codes – totally inadequate, a series of cosmetic changes to a code that was rejected 3 years ago. THE ONE FURTHER IMPROVEMENT REQUIRED HAS BEEN IGNORED – TO REBALANCE RISK AND REWARD

Accreditation – Needs to be every time company code is varied. No one 'accredits' the BBPA Framework code for fairness.

RICS rent assessment guidance. The RICS have revised the guidance notes, they are not mandatory. The Government identified that there was confusion in interpretation hindering proper application, RICS have refused to clarify.

Rent Assessment and RICS

- Government and BISCAM identified that interpretation of RICS rent assessment guidance remains confused
- RICS have done nothing to rectify this lack of clarity
- RICS Guidance is not mandatory on its own members
- RICS Guidance has no jurisdiction over non-members – rendering the compliance inclusion in the BBPA framework code superfluous
- At a RICS Trade Related Valuations Group meeting of 16th January 2011, it was considered that the Governments/BISCAM identification of confusion in interpretation of rent assessment guidance did not amount to “serious adverse comment on the guidance produced”
- As such, the Trade Related Valuation Group (TRVG) does not consider that the Guidance needed re-visiting
- The TRVG is still influenced by their former chairman Rob May, National Rent Controller for Enterprise Inns

CONCLUSION

Rebalancing risk and reward has always been the root of the tied pub issue

We can not rely on fair tied rent assessment, as even the RICS have confirmed it is unenforceable, or the BBPA framework code, as they have admitted they are not empowered to implement the necessary provisions on members

A mandatory offer of a free of tie option and guest beer rights, at an open market rent, to tied agreements will be a simple mechanism to self regulate these agreements. This is not a proposal to abolish the tie but to simply ensure it operates fairly and competitively.

A lower rent and any other purported benefits should countervail higher tied product prices.

Government has already intervened by allowing agreements that would otherwise be considered anti competitive to be exempt from legislation

We are simply asking for intervention to ensure tied agreements are operated fairly

SUMMARY

A Framework Code devised by the pub companies is in place and will be constantly reviewed to give the impression of progress and avoid the risk of intervention

No new material or meaningful reforms have been implemented in codes

A form of PICAS and PIRRS are in place - none working effectively, none considered to be independent

A form of PAS is in place - truly independent of pub companies and therefore lacking their acceptance

An Accreditation system is in place but is too slow to keep up with company code variations

RICS guidance remains confusing and easily manipulated by conflicted surveyors

Self Regulation is not working effectively

Time spent on allowing self regulation to establish is over 8 years that time has been spent seeking to circumvent any possible developments in RICS guidance and codes by creation of new agreements to which they do not apply.

From: Alan Yorke <>
To: siclarke <>
Subject: RE: PICAS

Date: Mon, 12 Nov 2012 15:30

Attachments: PICAS_Assessment_2.docx (45K), BIIBAS_Enterprise_Inns.docx (30K), Framework_Code.docx (41K), BII_response.jpg (1675K)

Hi Simon

It was great chatting to you.

Attached are the following documents: -

1. An article written on PICAS in the Word file named PICAS Assessment 2.docx. The document has been given to the PMA to use but I am sure that they will edit it down. I wrote this article quite a while ago.
2. Questioning of the accreditation of Enterprise Inns' Code of Practice. The Code of Practice is a shockingly bad document. The response from the BII (attached as BII response) is even more alarming and leads to the question is self-regulation a timetable of events merely to meet proposed deadlines or should it be based on matters of principle and quality.
3. I also did an assessment of the current Framework Code. I have not yet received a response from the BBPA. The BII response is included and the FVLA response stated that it has been forwarded to the drafters of the next version.

I hope that these documents are useful. Please phone me if you require any further information.

Kind regards

Alan Yorke

Email:
Tel:

WHAT DOES THE "I" IN PICAS STAND FOR – INDEPENDENCE, INCOMPETENCE AND/OR IMPOTENCE?

1. Introduction

The Pub Independent Conciliation and Arbitration Service (PICAS) was established in the latest version of the Industry Framework Code (IFC) issued under the auspices of the British Beer and Pub Association (BBPA), the British Institute of Innkeepers (BII) and the Federation of Licenced Victuallers Association (FVLA).

At the outset, it is important to note that the PICA-Service upheld the major charge we levied against our Pub Company, Enterprise Inns, and ordered that an amount of compensation be paid to us so this article is not written in retaliation or as "sour grapes". Having been the first applicant to use PICAS, this article is a summary of our experience of doing so.

We were astounded at times during the course of using PICAS and this article is to specifically highlight those occasions. It has led us to ask the question "Does the "I" in the acronym PICAS stand for independence, incompetence or impotence?"

You be the judge after reading this article.

2. Our PICAS application

PICAS published its application process on 1 March 2012. We completed the forms and drafted our complaint, against Enterprise Inns, which was submitted to PICAS on 6 March 2012. We received a letter from PICAS on 13 March 2012 stating that our complaint had been assessed, was compliant with the PICAS requirements, and had been forwarded to Enterprise Inns, who were required to respond by 3 April 2012. Our PICAS hearing was tentatively planned for 12 June 2012.

On 2 April 2012 we received a letter from PICAS stating that our application had been suspended as Enterprise Inns believed that we should have followed the dispute resolution procedures in their Code of Practice. Our immediate concern was that PICAS had acted on instruction from Enterprise Inns without question, were enforcing Enterprise Inns' internal procedures and were demonstrating a lack of technical knowledge of the IFC.

It is important to note that: -

- The Chief Operating Officer of Enterprise Inns had sent a general letter to all lessees/tenants dated 22 December 2011 stating that if we had a dispute, we could raise it internally through the Enterprise Inns dispute resolution procedures or we could lodge our dispute directly with PICAS (although we believe this was not his intention). This letter also stated that we could rely on the IFC.
- The IFC clearly states that PICAS can be used if the BII or FVLA had previously been approached to assist in resolving a dispute. We had asked the BII, through BIIBAS, to assist us in December 2011 and Enterprise Inns had participated in that process (we were given their response to our complaint on 23 December 2011). There was therefore no doubt that we had complied with the IFC and therefore there was no need to use the procedures laid out in the Enterprise Inns' Code of Practice. PICAS were aware of this as officials of BIIBAS also assisted in the administration of PICAS when we submitted our application.
- The IFC also states that a dispute must be raised with an official of a higher position than that of the person to whom the dispute related. We had raised our dispute with the Chief Executive of Enterprise Inns – you cannot go higher than him.

After initial discussions with the PICAS Administrator, we wrote to the acting Chairman of PICAS on 5 April 2012 demanding that our application be reinstated. We received a phone call from the acting Chairman on

the same day assuring us that our application had been reinstated. Unfortunately, this was a “hollow” assertion as in effect it had not been as explained below.

The question has to be asked how PICAS could allow Enterprise Inns to determine whether or not we had complied with PICAS procedures. PICAS had done their own assessment (their letter to us dated 13 March 2013 confirms this – see above) and found that we had complied with the PICAS Procedures.

Ironically, part of PICAS’ responsibilities is to ensure compliance with the IFC as adopted in individual Pub Company Codes of Practice, hence our reaction.

3. Further interactions with Enterprise Inns

Despite the fact that we were not bound by an Enterprise Inns internal procedure and had fully complied with the Chief Operating Officers’ correspondence dated 22 December 2011, what was interesting was that Enterprise Inns commenced to institute their own internal procedures without understanding that there was no need for us to legally do so. Effectively they were ignoring the PICAS process and PICAS did not take any further actions to follow up on why no response was received from Enterprise Inns.

We had two meaningless interactions with Enterprise Inns after which we approached PICAS on 14 May 2012 to ask when we would get a response to our complaint from Enterprise Inns. It took PICAS a relatively long time to respond (10 days).

4. Control over the next PICAS process

We received a letter dated 24 May 2012 jointly addressed to us and Enterprise Inns’ Chief Operating Officer stating that: -

- Both parties were being “put on notice”;
- Enterprise Inns had to submit their response to PICAS by 20 June 2012; and
- The hearing would be postponed from 12 June 2012 to 14 August 2012.

We immediately submitted a letter to PICAS confirming our acceptance of the contents of this letter.

Subsequently, in a letter dated 18 June 2012, we were informed that PICAS had extended the deadline date for Enterprise Inns to submit their response to 4 July 2012. The reasons for the extension were never provided to us. It is ironic that a letter putting both parties on notice was ignored by Enterprise Inns, begging the question who owned the PICAS process; PICAS or Enterprise Inns. How a so-called independent body can allow that to happen is not understood. We raised our objection to PICAS in writing.

The PICAS procedures state that a Pub Company has 21 days to respond. Enterprise Inns were effectively given 82 days to respond, nearly 4 times longer than stated in the PICAS Procedures. PICAS’s independence was severely compromised in our opinion.

In the interests of fairness and balance, it is important to note that Enterprise Inns had alleged to PICAS that our complaint “included reference to matters they believe to be of a without Prejudice nature in contravention of clause 3.7 of the PICA-Service procedural paper. They advise that they have not granted consent for us to do this”. PICAS responded that Enterprise Inns could include details of such matters in their detailed response due on 4 July 2012. We had not used “without prejudice” correspondence (it is very difficult to use an Enterprise Inns letter dated 10 May 2012 in a document we finalised on 6 March 2012) and no further information was ever provided. The fact that PICAS did not allow this to interrupt the hearing deserves recognition as it was the only time that PICAS stood up to Enterprise Inns in our opinion.

5. Our comments on the Enterprise Inns response

In terms of the PICAS procedures, Enterprise Inns were restricted to only commenting on the matters that we had included in our original complaint. Unfortunately, Enterprise Inns added additional information (for example, highlighting personal characteristics based on a LinkedIn profile and claiming dispute resolution procedures that had never occurred) in their poorly drafted response.

We decided not to raise this matter with PICAS, as we were certain that they would ensure that there would be compliance with their own procedures. Unsurprisingly to us, there is no evidence that this was ever done.

6. The incoherent letters we subsequently received from PICAS

We drafted a comprehensive comment letter on Enterprise Inns' response to our claim. We submitted our response much earlier than required (17 July 2012 versus 21 July 2012) as we suspected that PICAS and Enterprise Inns would find fault with our submission. This confirms our suspicions on the independence and integrity of PICAS.

We were not disappointed and suspect, but cannot confirm, that Enterprise Inns had raised some form of objection to our detailed response, resulting in us receiving a letter from PICAS dated 20 July 2012, most of which we were not able to understand. This letter had a significant impact on us and nearly forced us to withdraw from the PICAS process.

The letter had three components, namely

- a. That our comments on the Enterprise Inns response were very lengthy. There was no constructive advice or criticism; merely words in sentences containing innuendos that we could not fully comprehend. However, there was no doubt that PICAS were making a subtle suggestion that we were using the opportunity to raise new matters. We asked PICAS for clarification but did not receive a coherent response in a subsequent letter dated 23 July 2012.
- b. That we had increased the value of our claim. This was incorrect and we were able to clarify that we had in fact reduced our claim.
- c. That detail of our claim, including calculations to support estimates and physical invoices, should be forwarded to PICAS. More alarmingly, the comment was made that copies of these documents would be provided to Enterprise Inns, which we interpreted as "appeasement" as if PICAS had to justify any reward to us in advance of the hearing. We refused this request as we did not believe it appropriate that our information be distributed at will. In addition, we had no facilities to make copies of the equivalent of 3 to 4 large lever arch files of information. We made the point that if PICAS wanted the information, we would send them our files and PICAS could make whatever copies they deemed necessary. Again, we did not receive a coherent response in a subsequent letter from PICAS dated 23 July 2012.

At the outset, we had informed PICAS that the proving of claims should be addressed in the PICAS Procedure Papers. The PICAS Procedure Paper has only recently been updated (subsequent to our hearing) to address this issue but does so in an impractical manner. We have commented on this shortcoming further in this article.

However, if we were worried about the independence and competence of PICAS before this series of correspondence, we were extremely worried now.

7. The PICAS hearing

The hearing held on 14 August 2012 was very intensive from our perspective. In hindsight, we should not have attended the hearing but rather waited for written questions of clarification. There are three matters from the hearings that we can specifically recall and which are noted here for information purposes: -

- a. We were questioned extensively (we estimate that we were questioned for more than an hour after making our presentation) yet there was hardly any in-depth questioning of the Enterprise Inns representative (we estimate that he was questioned for no more than 20 minutes).
- b. We were criticised for not submitting certain information in our application. This astounded us as our statement was limited to 10 pages by PICAS. It was a significant challenge to include the information of our dispute in 10 pages and yet we were criticised for omitting information that one of the PICAS panel members deemed relevant.
- c. Our motive and approach of fighting Enterprise Inns was questioned extensively. The line of questioning implied that we should have “shut-up and put-up” with the major breach, despite the fact that we believed it fundamental to the profitability of our business and a part of our tenancy pact.

What is important to note was that in preparing for the hearing, we also had to prepare an “abandonment strategy”. In other words, we had to consider the circumstances that would we cease participating in the hearing due to bias or lack of objectivity. The reason for doing this was our past experiences we have explained earlier in this article.

Thankfully, we did not have to exercise this strategy as there was no obvious lack of independence throughout the hearing. However, the fact that we had to develop such a strategy in the first place is a poor indictment of PICAS.

8. The award

There are confidentiality clauses regarding the reward but it is not what the award states but what it does not state that is interesting and yet farcical. The reason is that the award makes references to “alleged counts”. In our opinion, our submission only included two alleged counts of non-compliance by Enterprise Inns of their Code of Conduct yet the award states, without being specific, that Enterprise Inns were found “guilty” on one alleged count, found in technical breach of the spirit of their Code of Conduct and were not found to be guilty in respect of the “remaining alleged counts”. This implies that there were obviously more alleged counts than we knew about (based on the recent press release by PICAS, there were supposedly 4 counts).

PICAS in attempting to prevent appeals have decided that “less is more”. The findings in the award are irrelevant and incomprehensible because insufficient detail is provided. We would have thought it important that its findings are explained in simple and understandable English and cross-reference to the statement made by the complainant. The reason for our expectation is that the PICAS Procedural Papers (earlier and latest versions – see paragraph 9.1) has always stated the following: “PICA-Service will utilise its best endeavours to provide the parties with details of its decision along with, where appropriate its Award...” PICAS is in our opinion not complying with its own procedures

There can be no accountability or transparency over the PICAS procedures; it is as if there is an embarrassment by PICAS to take ownership of the decisions it makes.

9. The attempted cover-up

PICAS made a public statement about our hearing stating that they had found a Pub Company guilty at their first hearing (ironically even though they only ruled in favour on one of our “many” alleged counts) but that we had signed a confidentiality agreement and therefore none of the parties could be named. The following should be noted: -

- a. We have never signed a confidentiality agreement and will never agree to do so. This was a blatant untruth for which we are expecting an apology.

- b. The PICAS application form, requiring confidentiality of the award, that we signed on 6 March 2012 specifically states that PICAS will make the outcome of the case public where a case has been upheld. Why this was not initially done is not understood.

It is interesting to note that even though we recently confirmed that PICAS can make all information available, reference is made to the Pub and not the applicant. It is not the pub that is in dispute; it is the publican and applicant.

10. Other shortcomings in the PICAS Procedures that impacted on us

- a. PICAS is continually changing its procedures and implies that after submission of an application to them, it is the responsibility of the applicant to ensure compliance with the latest procedures. There is a moral hazard with such an approach. The procedures that were in place when we made our application are very different to those that existed at the date of our hearing; do we demand that PICAS apply its original procedures?
Although not relevant to us, what will happen if the change to the procedures is deemed unacceptable to an applicant? Can the applicant withdraw their application and be refunded their application fee? There has not been very much thought given to this.
- b. Enterprise Inns verbally responded to a question by using information that was in terms of the PICAS Procedures "without prejudice" and accordingly should not have done so without our permission. We were never given an opportunity to make this objection.
- c. The PICAS procedure paper is silent on what constitutes "a reasonable and relevant tenant cost" relating to the PICAS Service. Our "Award" states that we can make application to the Administrator of PICA-Service for consideration to be given to recovering our costs, or part thereof, setting out a reasoned case supported where applicable by receipts or invoices. It would have been helpful if this requirement was stated in the Procedural Paper, together with an indication of what is deemed to be a cost (for example my time is a significant cost – should I have kept a timesheet) and not in the "Award". We would then have obtained and maintained detailed records from the outset. We have not bothered to submit details because we have no idea of what costs are "reasonable" and at the time of making our application, the Procedure Paper at that time implied that the panel would make an award for costs on what it believed was appropriate.
- d. The proving of claims, which is now a requirement, will prevent future applications. If this requirement had been in place when we submitted our original statement, I doubt whether we would have been able to use PICAS, not because we did not have information – we are a company and have to keep records accordingly - but because of the onerous task of presenting numerous leverage files of information. The latest PICAS paper now states that claims should be supported by "annotated original receipts or invoices (not photocopies) and where appropriate calculations. Complete clarity is regarded as being essential" – see paragraph 3.6. Imagine a claim for loss of earnings over two months – an applicant would need to present all the original daily cashing up receipts for each of the two months and possibly the previous years' original cashing up receipts for the same two months – and then show detailed worksheets to present the information in a clear and concise manner. This procedure is impractical and illogical and shows a lack of understanding of claims or a lack of understanding of other verification procedures that could be used. We are certain that our refusal to provide this information (see earlier in this article) impacted adversely on our award.

11. Other improvements to improve the effectiveness of PICAS

- a. The current judicial system recognises that at times, judges do not always look at the facts in a certain manner and therefore their judgements are not always appropriate. An appeal process provides assurance that judges always apply their minds "appropriately", regardless of the fact that judges have years of academic and practising experience. PICAS has decided that it will not permit an appeal process, which is understandable. However, nothing stops a peer review to be used by PICAS. Before issuing an award, it may be appropriate to ask a retired independent legal practitioner to do an

independent review of the decision reached by the PICAS panel. That would be so powerful and reassuring to complainants. The allegations that I have made in this article, would for example, be weaker if there had been a peer review within PICAS. It supposedly has 25 independent panel members; surely one could undertake an independent "peer review".

- b. Potential applicants need assistance in using PICAS. I would have expected the BII or FVLA to offer a support service to applicants, particularly individuals who may not have good writing skills. Vulnerable individuals may be precluded from using PICAS because the requirements are so onerous.

12. Conclusion

PICAS may believe that these criticisms are unfair considering its recent establishment and its own lack of experience. However, PICAS will have a significant impact on peoples' lives and its decisions will be far reaching. It cannot afford to make mistakes.

Actions are always louder than words. We have received numerous letters from PICAS proclaiming its independence. Unfortunately, the letters were not supported by actions. It is important to not only be independent, but also seen as being independent.

Furthermore, our understanding is that PICAS was created to support the publican and not safeguard the interests of pub companies. Accordingly, in our opinion the "I" in PICAS may need revision.

78 FLVA letter to BIS



Assistant Director, Competition Policy
Department for Business, Innovation and Skills
3rd Floor,
1 Victoria Street,
LONDON
SW1H 0ET

17th January 2013

Dear I

We are in receipt of your E Mail of 11th January and would confirm we will be attending the proposed round table meeting on 22nd January, which has already been confirmed by Nigel Williams. Although the initial meeting format is understandable, we would caution this is only the third such meeting in as many years.

In many respects this meeting replicates the mediation meetings of 3 years ago and it should be noted this will only be the second occasion all parties will have met in a plenary session. We are hopeful Government chairmanship will steer the parties towards a practical settlement of the issues

It is partly for this reason and the short time allotted for this meeting, along with the points outlined below that we feel an additional separate meeting with yourself and your senior staff to discuss certain key elements within the proposed Statutory regime, would considerably help the process.

There are a number of key areas in our thoughts which are detailed below:-

Statutory Code of Practice

The proposal to base any statutory code on the existing Framework Code is worrying as this Code is exactly as described, a framework which is only brought to life by the subsequent individual Company Codes.

Hopefully the Government proposal is not that of a Statutory Framework Code which can then be flexed by individual Pub Co codes. This would perpetuate the current problems and would countenance and give licence to the wriggle room the BBPA have sought with their two tier approach accommodating and articulating so called "competitive advantages"

We assume a substantive, comprehensive, universal and detailed Statutory Code is proposed which renders redundant the need for following Company Codes unless the Company wishes to improve upon the statutory requirements to give them the

“competitive advantage “which they claim to desire. The resultant COP should cover both Tied Agreements and FOT Agreements both lease and tenancy.

We have ideas for a substantive Statutory Code which your staff would probably find useful in starting the development work on the Statutory Code of Practice.

Estates below 500 Pubs.

The premise that small is good and big is bad is false as experience in dealing with all manner of Pub Co's over the last 20 years has demonstrated. Issues arising from Pub Co operations manifest in both sizes of Pub Co's, although the smaller Pub Co's are more successful in managing their image.

In essence good regulation is good regulation irrespective of Company size and we would regard with deep suspicion any Pub Company big or small which sought, or was allowed to operate outside a Statutory Code of Practice. Indeed within a similar Industry residential property lettings, letting regulation exists for all, regardless of size.

Uppermost in our thoughts are the disastrous consequences which arose from the Tied Estate Orders of 1991 which artificially restricted the number of Beer Tied Pubs vertically integrated Brewers could operate. This Government intervention brought about the creation of Pub Co's which irrevocably changed both the Industry and the Tied trade and Brewer/Tenant relationship.

We fear these unintended consequences will inevitably be repeated as a direct consequence of the 500 limit. The 500 rule will spawn a new breed of Pub Operating Companies, operating outside of the Statutory COP and will attract amongst others a whole new group of property investment Entrepreneurs. Both Punch and Enterprise have indicated a wish to reduce their Estates and up to 4000 Pubs could be divested by these Companies over the next few years. The resultant Statutory Code needs to be in place or have the ability to be incorporated into agreements to protect these licensees, so time is of the essence

FLVA input

Our submissions have always represented the Licensees viewpoint, but an important overlay is the advice we receive from our Operations Director and Consultant both of whom have extensive Pub Co experience over the last 30+ years. This has facilitated a balanced overlay but critically an insight of view of both Pub Co perspectives and probable tactical responses.

In seeking this meeting we are confident you will find these insights helpful and it should facilitate a dynamic discussion around the issues free from the more traditional lobby input.

Overreaching Fair Deal Provision.

We welcome this statement of intent and have a number of practical suggestions which could bring this principle to life.

In contrast we find the premise that a Tied Tenant should be no worse off than a FOT Tenant to be illogical and plain wrong, as we do with the statement concerning the balance between risk and reward. Provisions emanating from these principles could prove elusive at best and potentially could have damaging and unintended long term consequences for the Industry

We believe the RICS comment was informally made but has been ramped and amplified in the interim principally by the FOT lobby.

The Beer Tie

In many respects the point we are making could be construed as a strange one for a Licensees Association to be making but the retention of the tie is beneficial for a healthy and robust pub industry. However existing tie arrangements operate unfairly but we believe it remains essential that the aggregated discounts and favourable prices large Pub Co's have achieved need to be retained for the potential benefit of both Pub Co and Licensee.

FOT provisions will deny those proceeds to the Pub Co/Licensee partnership as the margins move back upstream to the supplier Brewer many of which are foreign owned entities Carlsberg/Heineken and Coors. Pub Co's will inevitably move to higher FOT rents, and have no interest in the trading entity of the Pub.

Thus in managing their property assets it will be of little consequence to the Pub Co that the asset remains as a Pub or is disposed for an alternative use ie Shop/Residential.

The truth remains that Pub Co aggregated beer discount proceeds are not being shared at the moment, but this remains the challenge for all in fashioning a fairer tie where share mechanisms could take many different forms.

PASS/Licensee Communications

We have developed a format for PASS which in the past we have been unable to share or discuss with Governance partners due to the failure of the BBPA to establish a Governance body. The FLVA PASS (Pubs Advisory Support Service) proposal provides a comprehensive support service to Licensees.

In addition we have called for Pub Co's to establish Licensee forums where regular substantive meetings can be held between senior Pub Co Management and representative groups of licensees. Again the parallel with residential property emerges as these Licensee forums would perform the same function as residents committees.

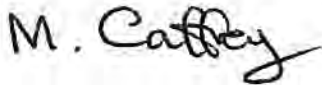
These Licensee forums will provide a vital conduit between Pub Co,s and their business partners, complementing the PASS service and forming the first stages prior to PIRRS or Pica Service.

We sincerely hope we will be afforded the opportunity for this discussion, our views have remained constant as outlined in our original BIS submission a copy of which is attached.

In the past we were disappointed not to have been invited to the BIS hearings or to subsequent meetings we requested with the select Committee Chairman. We felt then, as we do now that our views based on 20 years of Licensee representation balanced by advice from 30+ years of Pub Co operational experience provide useful, practical and insightful solutions to problems which have eluded the Industry for far too long.

Although it was a source of regret that Industry self Governance could not be achieved, we welcome the opportunity to start afresh, fashion a Statutory Code, revitalise Governance arrangements and for Government to appoint an Adjudicator.

We look forward to hearing from you.

A handwritten signature in black ink that reads "M. Caffrey". The signature is written in a cursive, slightly slanted style.

Martin Caffrey
Operations Director
Federation of Licensed Victuallers Associations

79 FLVA submission to BIS



This submission is made on behalf of the Federation of Licensed Victuallers Associations (FLVA) which is a members' organisation that has since 1992 looked after the business interests of self employed licensees and was a co signatory to the Framework Code of Practice. (FCOP)

Executive Summary & Recommendations

- 1 The FLVA accept the need for PubCo's to retain the beer tie subject to the points made in this document. In particular a more equitable split of the beer discounts available to the PubCo's. (paragraphs 23 - 28)
- 2 The FLVA recommend a removal of the wine/spirit/mineral tie from all existing agreements. We accept this may need to be followed by an interim rent review reflecting the increased retail margins. The review should also recognise the current changed trading environment at the outlet in today's economic climate.
- 3 The FLVA require a formal and transparent linkage between the wholesale prices enjoyed by the PubCo's and those offered to their tenants, insomuch that supplier "price increases" should only apply to the tenant at the same time and at the same price as those increases are levied on the PubCo concerned. Providing a true countervailing benefit.
- 4 We recommend the FCOP rental treatment of tenants share of AWP income be implemented now across all existing agreements.
- 5 The FLVA recommend a minimum licensee's profit return after rent of £20,000.
- 6 We recommend the establishment of PubCo/tenant forums as a means of maintaining dialogue between business partners and discussing new initiatives or tied pricing arrangements. (paragraphs 17 – 20)
- 7 A strict timeframe (12 months) for the implementation of 6 above.
- 8 All pub owning companies should be expected to establish and hold their own discreet tenant forums at both a national and regional level on a 3 monthly basis. There should be no exemptions, all PubCo's who submitted a Code of Practice should follow this process.

- 9 Within this submission we draw particular attention to the position of existing tenants. PubCo initiatives usually focus on new tenants and practices where such improvements have been introduced. We require greater emphasis on the plight of existing tenants. (paragraph 29)

Topics to be considered.

Whether the PubCo's individual Codes of Practice (COP's) are robust enough and whether the major PubCo's have built upon the de-minimus requirements of the BBPA's FCOP.

- 10 The PubCo's COP's are welcomed, and are in the main being complied with, in particular the transparency brought at rent review. We believe that much of the code should be enshrined within the lease or via binding collateral deeds in existing leases ensuring continued adherence by the PubCo and any successors in the event of a sale, giving full opportunity of redress for the tenant if breached. With regard to de minimus requirement, we feel that this in general has not been built upon with minor exceptions.

Are AWP machines now being treated more fairly and tenants being given a genuinely free of tie option.

- 11 The removal of AWP income (where shared) from the divisible balance in the rent calculations is being adhered to and is a welcome move. However existing tenants are still penalised until the next rent review date. We recommend an immediate across the board adjustment to bring old calculations into line. We are however not averse to the principle of tied machines, there is an argument that large scale management of machine income can be beneficial to both parties. What must become transparent is that no "royalty" payment is received by PubCo's which could potentially distort machine rental.

The treatment of flow monitoring equipment. (FME)

- 12 We recognise the absolute right of the landlord to have the terms of the tie contained within the lease adhered to but the interpretation of FME results are still being used as the sole source of evidence of transgression with a charge first, validate later attitude. Unreliable registering of beer line cleaning, or the purported lack of it, calls into doubt the validity of the data used by which guilt is measured.

The effectiveness of the new RICS guidance on pub rental valuations and whether it provides clarity on the principle that a tied tenant should be no worse off than a free of tie tenant by defining what constitutes a countervailing benefit.

- 13 The RICS guidance clarifies the point that the valuation process and procedure is the same for all sectors and should not result in a different approach to rent setting in one sector of the trade nor produce an “advantage or disadvantage” to another sector of the trade. This differs to the often voiced opinion that “a tied tenant should be no worse off than a free of tie tenant”. The guidelines state that the landlord’s share of the perceived divisible balance taken as rent is likely to be between 35% - 65% dependent upon several factors, including supply and demand, terms of trading and quantum of profit. These factors would mean that the same pub, offered on more beneficial trading terms, would mathematically bring about a higher rent on free of tie terms. We would welcome the opportunity to expand upon the implication of this in relation to current tied non discounted agreements in the market place today in oral evidence.
- 14 With regard to countervailing benefits, we agree with the RICS in that support services offering special, commercial or financial benefits are difficult to quantify as they represent differing values for tenants of differing experience. As such RICS guidance offers no help in this regard in rent calculation processes.
- 15 The FLVA believe that as part of any rent calculation the establishment of an overreaching minimum level of retained tenant’s income of £20k from the divisible balance within all rental calculations. Potentially indexed to the UK average wage statistics.

The creation of an industry benchmarking survey.

- 16 The introduction of benchmarking would be a welcome and useful tool in order to validate many of the assumptions made within FMT rent calculation models. However this will take time to produce. In the short term (12 months) a national data base of substantive rents could be assembled and made available by PubCo’s via the BBPA for use by all.

The availability and effectiveness of complaints procedures and an independent disputes mechanism.

- 17 The FLVA believe that there may be a need for such a mechanism should the current COP’s not be embodied via the collateral deed mechanism (paragraph 10) Many disputes could be resolved before the need of such a formal procedure by the introduction of regional and national tenant forums. This would establish “in house” dialogue between the PubCo and a representative body of its tenants.

- 18 We believe that the business partnership would be enhanced and mutual support given by the formation of Tenant/PubCo forums. We have advocated this for many years, and our officers have participated in, the formation of PubCo/tenants forums as a vehicle for constructive dialogue between parties. These have been at a national level where contentious issues have been resolved which were impacting upon the PubCo/Tenants business. A historic example of this was the Inntrepreneur Licensees forum in 1995. These forums could discuss the recalibration of existing rental/discount levels, repair obligations, operational issues, and new agreements, all being discussed prior to implementation. Current officers of the FLVA have undertaken such roles successfully in the past which brought about significant benefits to tenants. We would offer our support again to provide functional support to these forums thereby ensuring consistency of approach and representation across such forums. It would be perhaps for another body such as the BII (the industry's training & education body) to ensure these forums are representative.
- 19 Improved beer tie arrangements can only be brought about on a PubCo by PubCo basis through the tenant forum approach.
- 20 The avoidance of disputes and the commercial and tangible benefits achieved through forum discussion would assist in bringing about a fair and sustainable level of profitability to the tenant. This would allow tenants a better chance of remaining competitive against the managed and free trade sectors within the industry, whilst also establishing respectful lines of dialogue between business partners which are long overdue.
- 21 It is in light of these points that we support the principal of a fair beer tie, whilst recognising that the terms of many current agreements have become imbalanced and distorted in favour of the PubCo's.

The availability of genuine free of tie options i.e. an open market rent review under RICS new guidelines, ability to buy beer from any source.

- 22 We are not aware of any genuine fully free of tie options being made available. Some packages we have seen are offering discount levels approximating to current free of tie discounts whilst the tenant remains tied for supply.
- 23 We do not support the oft touted solution of a fully free of tie lease because of the following.
- 24 The buying power of the pub companies is undeniable and there should not be an assumption that the current free of tie market discounts will remain to a solus operator. They will be replaced by discounts from the brewers in relation to the potential volumes of the individual tenants concerned, thereby putting them in an inferior negotiating position.

- 25 Optimising his commercial terms with a brewer with regard to loan/discount arrangement may preclude a tenant from stocking other brewers products thereby limiting consumer choice and inhibiting market availability for smaller brands/guest beers.
- 26 This flowback of profitability from the PubCo to the brewer, many of whom are non UK based, would be without any guarantee that this increased profitability would in any substantive way flow back into the pub. At present the potential exists for PubCo's to invest in tied pubs by way of capital schemes, share of repairing obligations and to fund business recovery programmes. Perversely this profit flowback to the brewers could further support other brewers customers through enhanced discounts i.e. supermarkets, thus bringing about further pressure to the community pub, with subsequently more pub closures.
- 27 Any potential PubCo/tenant relationship would be commercially impracticable as the PubCo's would essentially become property companies with little shared interest in the trading entity of the pub. This would manifest itself in reduced investments in pubs, and a total emphasis by the emergent property company on rental return. Property companies operating free of tie leases would not be bound by the FCOP.
- 28 PubCo's should offer supply contracts with a fair division of their discounts which consolidate prices, for say a 3 year period, with increases only in line with the PubCo's suppliers increases in cash terms.

The guidance on the types of pub leases available and what the options mean in reality to prospective lessees.

- 29 There are many new and varied options available to prospective tenants in today's market. Critically there are also a very large number of historic agreements where tenants are locked into leases with rental levels and profit margins at anticipated levels of trade/costs, which bear little resemblance to current day trading conditions. This is often due to circumstances outside their control i.e. the smoking ban and predatory supermarket pricing. These historic agreements and those tenants locked into them urgently need a similar level of focus as new entrants to the trade. This position has been exacerbated by the introduction of the new PubCo agreements on more advantageous rent/discount terms. PubCo's should not just be reactive to calls from tenants in distress but positively address their plight.
- 30 Under no circumstances should any improvement of trading terms be fully negated by a subsequent rental increase. This would put the business risk wholly at the door of the tenant by transferring the benefit of improved beer purchase terms into that of a fixed overhead of rent.
- 31 It is recognised that the freeing of the tie on wines/spirits/minerals would assist the partnership by delivering a better benefit to the licensee with little consequential loss to the pub companies.

80 Emails, August-September, 2011

318
317

326

From: [REDACTED]@punchtaverns.com]

Sent: 13 September 2011 15:34

To: DAVE

Cc: [REDACTED]

Subject: RE: The Rising Sun, Middleton - Lease Renewal Valuation

Dave,

Thanks for this, I am awaiting a response from Marstons and so will follow this up again.

I am with my line manager later this week and so will be looking to get some dates from him then, once so I will get in touch to see which is suitable for yourself for further/escalated discussions.

Regards

From: DAVE [REDACTED]

Sent: 12 September 2011 14:14

To: [REDACTED]

Cc: [REDACTED]

Subject: RE: The Rising Sun, Middleton - Lease Renewal Valuation

Please find attached the transcript of the meeting on the 25th - can you confirm a date for the next stage - I believe that was your boss to review your figures ?

A couple of further questions.....

You supplied me with comparables but no data apart from rent and turnover - if (as you stated in your e email below) comaprables provided sales mix data, can I see that too ?

How are you getting on with the non Punch comparables - The Railway and the Malt Shovel ?

Cheers

From: [REDACTED]@punchtaverns.com]

Sent: 06 September 2011 08:07

To: DAVE

Cc: [REDACTED]

Subject: RE: The Rising Sun, Middleton - Lease Renewal Valuation

Dave,

Apologies for the delay, responses to your questions are as follows:

1. can you supply me with the information you used for my sales mix – if I understand correctly you used the same % sales mix that we are operating at currently, and applied it to the FMT figure ?
Sales mix data is arrived at through analysis of comparable data in order to assess trade achievable by a REO rather than a straight forward projection of actuals
2. Secondly can you please explain how you arrived at the profit margin %'s – the actual calculation – I need to fully understand why our GP's are so far adrift.
Calculations for profit margins can be calculated by taking the net retail price per unit, multiplying it by 288 (pints) to get the net retail value of the 36g barrel, subtracting the price paid per brewers barrel and then expressing this as a % of the original net retail value.

I'm not going to go through each individual product but for the standard ales on the valuation left with you it would be as follows:

- Gross retail price = £2.80
- Net retail price (-VAT) = £2.33
- Net retail value of a 36g barrel = £671.99
- Subtract the price paid for the barrel (£351.25) = £320.75
- £320.75 as a % of £671.99 = GP of 47.7%

Needless to say any product not expressed in pints would need converting into such to do the calculation.

3. Finally we discussed comparable data – can you get this to me as soon as.
Punch data attached, awaiting responses regarding non-punch sites but for clarity these were the Malt Shovel, Wirksworth Moor and the Railway, Shottle

As discussed, if you could send across a transcript of our meeting it would be appreciated

Regards

Regional Valuation Surveyor
Punch Taverns Plc

Tel: [REDACTED]
Email: [REDACTED]@punchtaverns.com

Punch Taverns | Jubilee House | Second Avenue | Burton on Trent | Staffordshire | DE14 2WF

From: DAVE [mailto: [REDACTED]]
Sent: 26 August 2011 11:17
To: [REDACTED]
Subject: RE: The Rising Sun, Middleton - Lease Renewal Valuation

Hi – following the meeting there were a couple of points I would be grateful if you could confirm.

4. can you supply me with the information you used for my sales mix – if I understand correctly you used the same % sales mix that we are operating at currently, and applied it to the FMT figure ?
5. Secondly can you please explain how you arrived at the profit margin %'s – the actual calculation – I need to fully understand why our GP's are so far adrift.
6. Finally we discussed comparable data – can you get this to me as soon as.

I will endeavour to get the meeting transcript to you next week.

Cheers

Dave

From: [REDACTED]@punchtaverns.com]
Sent: 24 August 2011 08:55
To: DAVE
Cc: [REDACTED]
Subject: RE: The Rising Sun, Middleton - Lease Renewal Valuation

Dave,

Please see below, hope this answers everything but if there's anything I've missed that you feel you need before Thursday please let me know

In response to your questions...

- **How have you accommodated the RICS guidance ?**
 RICS guidance is accommodated through the preparation of a profits method valuation accounting for the FMT, gross profit and resultant operating costs as expected to be generated by a REO
- **Why have you digressed from benchmarking ?**
 Please elaborate on this, as per the RICS guidance the assessment is based on FMT, gross profit and resultant operating costs as expected to be generated by a REO. Notwithstanding my understanding of the latest bench marking data from ALMR states that expenses (not allowing for a managers cost) should sit at 36% of turnover. Therefore the digression is favourable?
- **How have you reflected the requirement that the tied tenant being no worse off than a free of tie tenant?**
 The RICS guidance addresses this point in stating that following the guidance should not result in rents in one sector being set at an advantage or disadvantage to another and that value is derived from analysis of similar transactions.

- Why have you made no reference to Brooker ? (minimum earnings £31,500)
The Brooker case concerned a lease renewal in the south west with the material point revolving around divisible balance
- Please provide a Volume sales chart for the region and for us to compare.
I am unable to provide a volume sales chart for the whole region; however, if you let me know the relevant comparables I should be able to provide info on these
- What comparables have you used, both for turnover on other products and barrelage?
We can discuss on Thursday, however, as mentioned above if there are any relevant comparable you require any info on I should be able to provide upon request.

Regards

Regional Valuation Surveyor
Punch Taverns Plc

Tel:
Email: [\[redacted\]@punchtaverns.com](mailto: [redacted]@punchtaverns.com)

Punch Taverns | Jubilee House | Second Avenue | Burton on Trent | Staffordshire | DE14 2WF

From: DAVE
Sent: 23 August 2011 12:57
To:
Subject: RE: The Rising Sun, Middleton - Lease Renewal Valuation

Thanks for the clarity

How are you doing on the other questions ?

D

From: [redacted]@punchtaverns.com]
Sent: 23 August 2011 10:34
To: DAVE
Subject: RE: The Rising Sun, Middleton - Lease Renewal Valuation

Dave,

Apologies, probably not the clearest! Under section E (7) of the DOV agreement it states that the effects will not be applicable for any renewal – and therefore upon

renewal the lease should revert back to original terms. Therefore the true entitlement under the Landlord and Tenant Act 1954 would be a renewal on original tie and discount.

However, I have valued in the current state and would propose to renew the lease and the terms of the DOV in order to continue with current tie and discount band.

Regards

Regional Valuation Surveyor
Punch Taverns Plc

Tel:
Email:

Punch Taverns | Jubilee House | Second Avenue | Burton on Trent | Staffordshire | DE14 2WF

From: DAVE ;
Sent: 22 August 2011 19:48
To:
Subject: RE: The Rising Sun, Middleton - Lease Renewal Valuation

Slightly confused. If you are proposing to keep the discounts for the purpose of this rental review and the same level of tie then surely you are doing a like for like review ?

Am I being thick ?

Dave

From: [mailto:]@punchtaverns.com]
Sent: 22 August 2011 17:53
To: DAVE
Cc:
Subject: RE: The Rising Sun, Middleton - Lease Renewal Valuation

Dave,

I can understand why you are asking this, the deed of variation completed back in 2009 explicitly states that such discounts would not be applicable on renewal. However, whilst I am not proposing a like for like renewal (I can provide such a scenario if requested) I am proposing to keep discounts, tie etc the same as documented by the present DOV for the term of the new lease.

Any queries please let me know

Regards

Regional Valuation Surveyor
Punch Taverns Plc

Tel: [REDACTED]
Email: [REDACTED]@punchtaverns.com

Punch Taverns | Jubilee House | Second Avenue | Burton on Trent | Staffordshire | DE14 2WF

From: DAVE [REDACTED]
Sent: 22 August 2011 08:56
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: The Rising Sun, Middleton - Lease Renewal Valuation

Can you also look at the question below – Peter seems reluctant to answer this point as it is your valuation

Please confirm

Dave

From: DA [REDACTED]
Sent: 18 AUGUST 2011 11:46
To: [REDACTED]
Subject: RE: The Rising Sun, Middleton - Lease Renewal Valuation

With respect a lease renewal is a formulaic process that (if you adhere to RICS) should be the same process for everyone. Therefore the only issue in contacting you is whether you have the time to respond, not on how James has arrived at his figures.

The question is straightforward – will our current discount levels be guaranteed in the form of a DOV for the lease? I'm presuming that the 58.8 % reflects the discount allowed (although I actually haven't checked – perhaps you could confirm this as well).

I have very little time to make some very important decisions – this process has taken longer than it should through no fault of ourselves and I see no reason for further delay.

I have a number of questions which I have put to James on his arrival back from holiday – this question cannot wait until then.

Dave

From: [redacted]@punchtaverns.com]
Sent: 18 August 2011 09:56
To: [redacted] AVE
Subject: RE: The Rising Sun, Middleton - Lease Renewal Valuation

Dave

As this is [redacted] lease renewal, I really should leave the discussions on this matter with him.

Dave – as you will be aware, at lease renewal you are entitled to a renewal on existing terms, and any movement away from that is at the discretion of the Landlord by way of negotiation.

I'm sure it will be discussed next week.

Kind regards

**Regional Valuation Surveyor
Punch Taverns**

Mobil

Email punchtaverns.com

From: [redacted]
Sent: 17 August 2011 10:28
To: DAVE,
Subject: Re: The Rising Sun, Middleton - Lease Renewal Valuation

are you able to answer Daves query below?

Normally there wouldnt be security of tenure on a PG2 so not come across this before.

Dave- if [redacted] doesn't know the answer I'm afraid we will need to wait until [redacted] returns to find out, but I do understand where you are coming from.

Cheers

Regards

On 17 Aug 2011, at 10:15, "DAVE" [redacted] wrote:

All well and good until Punch go bust and sell off the Pub in which case without a DOV we will revert to normal prices – therefore not acceptable to us ?

Makes sense ?

Dave

From: [redacted] [redacted]@punchtaverns.com]
Sent: 17 August 2011 10:12
To: DAVE

Subject: Re: The Rising Sun, Middleton - Lease Renewal Valuation

Hi Dave hope you are well.

has based the new rent figure on your current discount (PPE). The agreement will be a new 5 year agreement with this price banding written in to it - so no need for DOV.

This pricing will be set for the full 5 years until it is renewed again.

Hope meeting with goes well

Regards

On 17 Aug 2011, at 10:03, "DAVE"

wrote:

We are meeting with next week to discuss the attached. He has included our current discounted figures in his rent review – does this mean our current levels of discount will be included in next years agreement via a Deed of variation.

Can you guarantee the same level of discount for the 5 year agreement period

Dave

From: [REDACTED]@punchtaverns.com]

Sent: 12 August 2011 17:21

To: [REDACTED]

Cc: [REDACTED]

Subject: The Rising Sun, Middleton - Lease Renewal Valuation

to: [REDACTED]

As discussed yesterday, please find attached valuation for a like for like lease renewal at the Rising Sun. As you will see the valuation is producing a proposed rent of £24,050

As mentioned, I am on annual leave w/c 15/8/11, however, please feel free to email me any queries regarding this and I will respond on my

return, alternatively we can discuss any such queries in person on the 25th August.

Regards

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Version: 9.0.901 / Virus Database: 271.1.1/3827 - Release Date: 08/12/11 07:34:00

<101825 - Rising Sun - Lease Renewal Valuation.pdf>

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81 Emails, February 2013

318 ✓

013/669863

[REDACTED] (CCP)

From: Dave Mountford [mailto:dave.mountford@morningadvertiser.co.uk]
Sent: 08 February 2013 11:28
To: [REDACTED]
Subject: RE: Rising Sun Rental Assessment
Attachments: RE The Rising Sun Middleton - Lease Renewal Valuation 1.htm

Please give me a call and let me know if you can read the attached email – it was on another computer and I had to copy to this .

Regards

Dave

The article I spoke about:

<http://www.morningadvertiser.co.uk/Opinion/My-Shout/Statutory-code-proposals-are-a-potentially-crippling-U-turn>

And my response

<http://www.morningadvertiser.co.uk/Opinion/My-Shout/Mountford-Statutory-regulation-and-why-choice-is-not-such-a-scary-thing>

The comments especially Phil's are interesting

From: [REDACTED] (CCP) [REDACTED]
Sent: 08 February 2013 08:35
To: Dave Mountford
Subject: RE: Rising Sun Rental Assessment

Dave,

Thanks for this – it is really helpful to see a real world example. Is it okay to call you now to discuss this? Alternatively I will speak to you later.

[REDACTED]

The article I spoke about

82 Emails, February 2013

319

013181304

[REDACTED]

From: Dave Mountford
Sent: 11 February 2013 11:35
To: [REDACTED] (CCP)
Cc: [REDACTED]
Subject: FW: Campaign Issues

Good morning – as you are meeting with SIBA very soon I thought I would send you the attached e mail from [REDACTED] who responded to my letter inviting them to a meeting this week. Perhaps you could keep her details confidential from SIBA although I suspect [REDACTED] is not that concerned.

As you may remember I have two scheduled meetings, tomorrow and Wednesday and I will keep you informed as to the responses.

Having spoken to many, I believe that the e mail below is indicative of the sort of feedback, but will keep you in the loop.

I have copied in [REDACTED] and obviously spoken to her to ask her permission to forward her thoughts. Please feel free to contact her direct if you see fit.

Look forward to speaking to you soon.

Best wishes

Dave Mountford

From: [REDACTED]
Sent: 11 February 2013 10:32
To: [REDACTED]
Subject: Campaign Issues

Morning Dave

It was good to speak to you last week. I had read your letter with much interest and it certainly struck many chords with me as a brewery and pub owner. I would very much have liked to have got over to Cromford for your meeting this week but unfortunately at the moment work commitments mean that I am very office based here in [REDACTED]

I hope that by e mailing you my thoughts on some of the points raised in your letter I can show my support for the work that you are doing and express my interest in becoming involved in the campaign. As I mentioned to you on the phone last week I am no shrinking violet and when the issue is something that directly affects my family's livelihood then I am happy to speak out and publically.

To give you some background to us, [REDACTED] own [REDACTED] and [REDACTED] [REDACTED] started [REDACTED] in 2004 from his former pub [REDACTED] at [REDACTED]. After leaving that pub he brewed on a part time basis from a rented unit in Ilkeston. In 2010 we took the plunge and bought our own pub, [REDACTED] which fortunately for us in this case had been run

into the ground by Punch. We rescued it and in 2012 we began brewing on increased plant from the former function room at the rear of the pub. Obviously this has all cost money and sweat equity, in order for our business to succeed we need to be able to sell the beer we produce to other pubs and wholesalers.

We decided to join SIBA when opening the new brewery at Elston, we had never done so before because we simply didn't produce large amounts of beer and the costs seemed high. We felt that in 2012 if we wanted success with our brand then we needed to join SIBA as a way of entering competitions and getting our name out there, from what I understand you can't enter any of the recognised competitions without being a member. We also decided to join the DDS scheme as we felt that it would boost our sales significantly.

Disappointingly we have done very little business through the DDS scheme. Probably about five 9g barrels a month at best. The costs to join were very high so the first few months of trading through DDS meant that we didn't see a return at all. The process of selling through DDS still remains shrouded in mystery to me. We were asked to specify our beers for sale and where we would be prepared to deliver. I was generous in where I said we would go as I thought that a volume of sales would justify further deliveries. After the first few months of not many sales coming through, I e mailed DDS with my concerns. There e mail reply was curt and suggested I read the notes linked to the DDS website regarding sales. For the high amount SIBA charge to trade through them I would have thought a day or even half a day training would have been provided, they could afford to send someone to our brewery to see our set up and go through the over complicated system with me.

I am an educated person, I am not afraid to ask questions so I got in touch again. From reading the notes on the website I had a burning question....If we were not to approach many of the pubs directly then how would they know about our beers in order to buy them? Were Siba producing publicity material on our behalf as part of our fees...a glossy wholesaler brochure with details of each beer? Apparently not. So the suggestion was to make regular calls...but only to the ones we are allowed to ring...to suggest to the managers that they order our beers through SIBA. They also suggested a mailshot...at further cost to us, you can see where I am going with this can't you, what exactly had we paid the huge DDS fees for?

I since learn about the huge costs SIBA put onto of the price we sell the barrel for before the customer can buy it. So that's two shots at my profits they have had already, The mystery continues, only last week a pub landlord rang to ask if we were in SIBA as he really wanted our beer for his pub in [REDACTED]. I said yes, happy that perhaps we had picked up a regular customer from SIBA. He called me back later to say that his pub was out of the delivery range allowed by DDS and his pub company and yet we deliver to other pubs in [REDACTED] through SIBA! Understanding the different rules between the 15 or so pub companies represented by SIBA would take a Masters degree. I simply do not have the time. I very much doubt that we will renew our membership this year with DDS, it seems no better than a pub company monopoly set up to rip off the breweries themselves. SIBA do not offer a free of tie alternative for pub company licensees' and in our case all of our products are not made widely available to them.

No wonder so many pubs are closing, high rents to pub companies, high business rates and taxes as well as over inflated prices for cask ales. The profitability is squeezed out at every level and the only winners are the Pub Co's and SIBA who claim to be at the heart of the micro brewing industry.

Kindest Regards

Company Director
[REDACTED]
[REDACTED]
[REDACTED]

This is a copy of some of the correspondence between us and SIBA.

Hi

Have you read the DDS brewers rules of engagement in the documents section of the SMI as this will advise you on what marketing you can do etc.

Subject: FW: Campaign Issues

This is a copy of some of the correspondence between us and SIBA.

Hi [REDACTED]

Have you read the DDS brewers rules of engagement in the documents section of the SMI as this will advise you on what marketing you can do etc.

You must only deliver to DDS pubs once you have an order from us so if you contact pubs you will need to ask whether they belong to a pub company and find out how they order beer.

Attached are the prices you will be paid for beers being supplied to the difference pub companies which are all based on abv.

You will receive a self billing at the beginning of the month which will list all beers completed in the previous month. Then you will receive a remittance advice after the 15th which will show you how much you will be paid at the end of the month. This 'should' match your self billing unless there have been any deductions.

Hope this helps

Kind regards,

[REDACTED]
SIBA Commercial Administrator

'Working for the smallest Brewer'

Proud of Beer film

From: [REDACTED]
Sent: 22 October 2012 17:15
To: atm
Subject: Re: Welcome to DDS

Hi [REDACTED]

We have had a few orders now on DDS and have printed off the delivery notes and submitted them to Siba via the website...I hope. I do have to say I find the whole thing a little confusing....not DDS itself, this seems very straight forwards. I still don't know the prices for our products, I will need these for our own accounting purposes. Also should we wait for orders to come to us or can I telephone pubs directly for sales? How are our beers marketed if we are to await orders? I think that some basic instructions for new members or training would have been a real help to me. I did look at the DDS site but couldn't find any such instructions. I am picking up that there are differences in the way the pub companies make their orders though I am only getting this information through trial and error. Still unsure as to when we actually get paid for the beer we have sold too, I understand that the first few orders will go towards our fees from Siba but presumably there will be a statement?

Sorry to ask so many questions Louise, I just feel a bit at a loss with the system!

83 Emails, September 2011 – February 2013

[3201]

[REDACTED] (CCP)

(CCP)

Sent: 01 February 2013 16:22
To: 'Dave Mountford'; [REDACTED] (CCP)
Subject: RE: Code of Parctice for Pub Companies - SIBA
 Dave,

Many thanks for keeping us updated.

Regards,

Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1
 Victoria Street, SW1H 0ET | Direct line: +44(0)20 7066 1000

The Department for Business, Innovation & Skills (BIS) is making a difference by supporting sustained growth and higher skills across the economy.

BIS: Working together for growth

From: Dave Mountford [REDACTED]
Sent: 01 February 2013 15:49
 [REDACTED] (CCP); [REDACTED] (CCP)
Subject: FW: Code of Parctice for Pub Companies - SIBA

FYI

From: [REDACTED]
Sent: 01 February 2013 13:57
To: [REDACTED]
Subject: Code of Parctice for Pub Companies - SIBA

Hello Dave

Many thanks for your letter but unfortunately we are not able to attend the meetings. We do however have a few comments to make regarding SIBA which we hope you find of interest.

As per your comment, we also disagree that SIBA offers an equivalent of a free tie offer. As a very small microbrewery we would not join SIBA because

a) the joining fees in the first year would exceed £540 (vat inc) ! As a very small microbrewery this is financially prohibitive.(below is a copy of SIBA's email confirming this)

b) SIBA are unable to confirm what a firkin price would be until after we had joined (why would we want to join & then find out that we were worse off than if we were selling a firkin locally to a none SIBA pub?)

c) Despite thier charges, SIBA can not guarantee that any firkins will be sold

Thus, as it would not make financial sense for small micobreweries to join , SIBA can not be seen as an equivalent to a Free-Tie.

We thought your letter was written very well & hope the meetings go well .

kind regards

[REDACTED]

----- Original Message -----

From: atm3

To: [REDACTED]

Sent: Monday, September 12, 2011 9:00 AM

Subject: RE: SIBA DDS

Unfortunately the price is the same for all new members.

Thanks,

[REDACTED]

SIBA Direct Delivery Scheme
'working for the smallest brewer'

www.siba.co.uk

From: [REDACTED]

Sent: 12 September 2011 09:58

To: atm3

Subject: Re: SIBA DDS

Hi Rachel

Due to the small volumes we produce (and as such we are not vat registered either) it looks like it would cost about £600 to join - which just isn't a feasible option . Is there no reduced price concession for the really small producers ?

kind regards

[REDACTED]

----- Original Message -----

From: atm3

To: [REDACTED]

Sent: Monday, September 12, 2011 9:35 AM

Subject: RE: SIBA DDS

Please see below

Thanks,

[REDACTED]

SIBA Direct Delivery Scheme

'working for the smallest brewer'

www.siba.co.uk

From: [REDACTED]
Sent: 11 September 2011 16:38
To: atm3
Subject: SIBA DDS

Hello

We are a very small micro brewey recently started in [REDACTED] specialising in just one beer.

If we were to join SIBA DDS , could you kindly advise

1. What will the Annual mebership charge be - The fee is a one of fee of £450.00. £150.00 of this is for up to 5 ales Cyclops accredited please see www.cyclopsbeer.co.uk for more information on Cyclops. No monies are required to be sent baring £100 + vat before you are due to go live the fee is deducted from first sales within SIBA

2. what the charges would be for using the SIBA DDS Prices are set and vary by pub company. These are based on abv and are provided once joined and fee is paid

kind regards

[REDACTED]
[REDACTED]

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84 GMB letter to BII

Bernard Brindley
British Institute of Innkeepers
Wessex House
80 Park Street
Camberley
Surrey
GU15 3PT

13th February 2013

Dear Bernard

As you may be aware I have arranged a meeting with your new Chief executive, Tim Hulme with a view to talking him up on his pledge to forge partnerships and working towards common goals.

I do not believe it is any secret that my dealings with the BII have been less than satisfactory both from a personal point of view and also with regard to the numerous tenants that I have directed your way. I do, however believe that it is important that I am as open minded as possible with regard to your organisation, hence my suggestion that I meet with your organisations new CEO.

I would, however like to clarify a number of points, prior to this meeting as I am now directly involved in the consultation process and wish to be fully aware of the issues before I place on record the GMB's position.

At our recent round table meeting Jo Swinson made it clear that the process up until statutory regulation could take up to 2 years. I expressed concern that this would leave so many licensees exposed to the behaviour, we have now accepted as standard within the industry. It was put to me that PICAS would be the on-going dispute resolution for tenants who have experienced breaches of their codes. I not also that the PICA service figures predominantly in the latest "improved Codes" announced to such aplomb by the BBPA.

I would therefore be very interested to understand your opinion on how you see PICAS developing over this period and how, if at all you see it fitting in to the statutory regulation process.

In light of [REDACTED] experiences I would also like to understand your opinion on Enterprise Inns attempts to have [REDACTED] legal case thrown out of Court because she "lost" her PICAS Case. Surely this undermines, further the tenants confidence on the service, if an individual can lose (in this case a very strong argument) and face having her PUBCO attempt use this "loss" as a reason for having a legal process discarded?

I would be very grateful if you could explain the PICA Services most recent rule changes. One of our members, [REDACTED] brought to my attention her Code Breach allegation last year. As always I advised her to go through the correct procedures and follow the Enterprise grievance route before going through PICAS. [REDACTED] progressed her complaint through her BDM, Operations Director and finally after the predictable fudging from Enterprise Inns, she gave her information to Simon Townsend. She exhausted her complaints procedure in January this year when she received her not unsurprisingly dismissive response from Mr Townsend.

When she then sat down to write her PICAS complaint she discovered that on the 7th January the rules regarding PICAS complaints had changed. Within your papers it states that applications will be accepted from "Codes of Practice accredited subsequent to 30th June 2010 & in place on the date of alleged breach".

Can you make clear if a breach based upon Enterprise Inns Code which was in place up until Oct 2010 will be accepted by yourselves? In your procedural papers downloaded on 26th April 12 there is no mention of any dates or Codes & [REDACTED] case has dates that straddle years & only ended internally in Jan 13.

On this point it is interesting to note that if [REDACTED] presented his case now, under your rule changes his case would not be heard.

I would also be grateful if you could provide more detail upon point 3.2 within your new procedures. As the GMB intends to fund [REDACTED] case we would obviously wish to report back her experiences for the benefit of our members. As this clause is not in the previous information I would like to understand exactly what "absolute confidentiality" is? Previously the only confidential issue was the award.

Again it is interesting that under your new system, if my understanding is correct, neither [REDACTED] nor [REDACTED] would have been able to speak out about the PICAS experience after they won.

Finally Bernard I would ask that you comment on my last point. The Government was told by the BBPA that Carbolic smoke ball made the Codes legally binding. This was then communicated back to the industry and has yet to be challenged as anything other than fact. Therefore logically according to the law, any breaches of the codes must apply to the point at when the breach took place. Surely therefore by limiting the scope of PICAS to the point at which a new Code is accredited would mean that a PUBCO can breach its code and therefore the law, but may not be heard by PICAS, which of course is the option supposed to offer a cheaper resolution prospect than the Courts.

Many thanks for giving these thoughts your consideration and I look forward to hearing from you very soon.

Yours sincerely

Dave Mountford
GMB Matlock

85 Email with PowerPoint presentation

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[REDACTED] (CCP)

From: Dave Mountford [REDACTED]
Sent: 02 March 2013 11:32
To: [REDACTED] (CCP)
Cc: [REDACTED] (CCP)
Subject: Rent review - Rising Sun
Follow Up Flag: Follow up
Flag Status: Completed
Attachments: Rent Renewal - 7K.xls; Punch Taverns Rent Review.ppt

[REDACTED]

Please accept my apologies for the delay in getting this to you. I have spent most of my spare time this week trying to find the attached documents only to find them on my daughters lap top !!!

Attached is a PowerPoint presentation related to my 2011 Rent review – just to remind you Punch had worked out my RR and arrived at 24,500. I submitted a section 26 Court application for £7,200 per year and attached id the PPS and the excel spread sheet that I used to arrive at the figures.

Please drop me an email or give me a call to discuss

Best wishes

Dave

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Punch Taverns Rent Review

Current Situation

- In 2009 I successfully proved that Punch Taverns had lied to me about the health and safety of my pub
- This took 18 months and involved both the GMB and BII
- I was able to negotiate a deal involving reduced tied prices and a rent deemed "reasonable"
- This "deal" resulted in the possibility that we could earn approximately 15 k per year from our Pub if we continued to maximise its potential.
- We made it clear to Punch that we needed a further 5 years to trade to recoup the losses made in the first 3
- We therefore pushed to have our rent review as soon as possible in advance of our June 2012 lease renewal date
- Our rental offer was provided to us in August of this year.

Rent Review

- Proposed rent increase was £24,299 an increase of 60 %
This was calculated in accordance with the R.I.C's Guidelines" using the "Profit means method" according to Punch.
- By calculating the net profit of my Pub Punch at £48,500 they arrived at a "Divisible Balance" which they split 50:50 to arrive at the rental figure of £24,299.
- This rental figure reduced our earning potential to below £10,000 per annum.

How they arrived at the figure ?

1. Fair Maintainable Trade (FMT) achieved by a "Reasonably Efficient Operator" – "Mr Average"
2. Gross Profit achieved by the Pub
3. Costs attributed to running the Pub

All this is backed up by comparable data from other Pubs.

FMT	£231,688
Gross Profit	£135,962
Costs	£85,463
Net Profit	£48,500
Profit to Pub	£24,250
Rent	£24,250

FMT:

- Based on 181 barrels and a 90:10 split of wet to food.
- Wet £205,688
- Food £23,833
- Total turnover £231,688

Gross Profit Margin

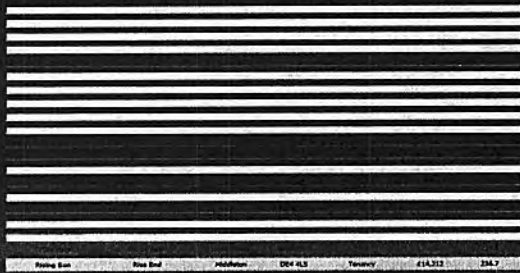
- Calculations for profit margins can be calculated by taking the net retail price per unit, multiplying it by 288 (pints) to get the net retail value of the 36g barrel, subtracting the price paid per brewers barrel and then expressing this as a % of the original net retail value

288 Pints in a 36 g Barrel

Costs

36.9 %

Comparables



FAIR
MAINTAINABLE
TRADE

Trading history of Pub

• 2004 -	143.34	The BBPA have stated
• 2005 -	109.06	
• 2006 -	87.16	That beer sales have reduced by 12 % since 2004.
• 2007 -	88.28	
• 2008 -	120.47	
• 2009 -	171.78	
• 2010 -	255.59	

Last 3 Years Average

- 120.47
- 171.78
- 255.59

182



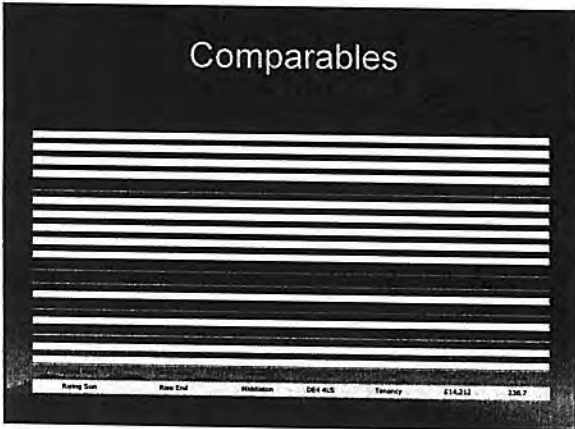
Costs

ALMR Benchmarking for a food led Pub
Between 40 % – 43 %

Milestone Accounts 51 %

BBPA (inc Entertainment)
45 %

Comparables



Line Cleaning

- 3 x Lagers
- 1 x Cider
- 1 x Guinness
- 5 x lines x 2 pints per line = 10 pints per clean
- 1 line clean per week
- 52 x 10 = 520 pints/ 288 = 1.8 barrels per year

Ullage (non drinkable sediment)

- Allowance of 2 – 3 pints per 9 gallon
 - (dependant on the beer)
- 2.5 x 4 = 10 pints per 36 Gallon

181 barrels = 1810 pints that I can't sell

$1810 / 288 = 6.28$ barrels
3.46 %

The reality

- FMT 138 not 181
- GP % 52 % not 58.8 %
- Costs 43 % not 36.9 %

- Net Profit/ Divisible balance £14,500

Actual Rent

- Based on the RIC Guidelines the rental figure that I have arrived at is;

£7,200

Question

- I am a high profile anti Pub Co campaigner
- I have already taken this company on and with a great deal of help arrived at a successful outcome.
- I have a great deal of resources available to me – Fair Pint/ GMB/ BII and FSB
- If they can try this with me, what are they doing to those that don't have that help and assistance?

Barellage		128					
Wet Sales	Drink	£144,973	52%	£75,385.96	57989.2	143.34	
Dry Sales	Catering	£36,243	50%	£18,122		109.06	
	Accommodation	£0.00		£0		87.16	
	Other	£0.00	0%	£0		88.28	£144,972.80
Total Sales		£181,216		Total Profit	£93,507	188.45	
						120.47	£181,216.00
						171.78	
						255.59	

Expenses

% Of Total Turnover

WAGE COSTS	17.5	£31,713		108.96	145.27	17.43	£36,243.20
STAFF NI	1	£1,812			127.83		
RATES	0.6	£1,087	700		average pint	3	
UTILITIES - VAT	6	£10,873	52		net of vat	2.58	
UTILITIES NON VAT	0	£0	36400		Pints in 30 g	268	
REPAIRS/ REPLACEMENTS	5	£9,061			288 x £2.50 (ex Vat)	720	
INSURANCE	0.8	£1,087	300		Proportion of Beer = 85%	1132.6 rate per barell	
STOCK / ACCOUNTANT	0.6	£1,087	10400		1132.6 x 128 barells	£144,972.80	
CLEANING	1	£1,812	12				
LICENSING - VAT	0.4	£725					
ENTERTAINMENT	6	£10,873	150				
MARKETING/ PROMOTIONS	1.1	£1,993					
TELEPHONE	0.6	£1,087	7600				
TRAVEL/ CAR	0.7	£1,289					
BANK CHARGES	1	£1,812	230				
SUNDRIES	1.6	£2,899					
LICENSING - NON VAT	0	£0	2760				
	43.7	£79,191	10560				

Divisible Balance

£14,316

£7,158

£0.00

June 17th 2007

Turnover		Profit		
Wet Sales	£80,000	Total Profit		33600
Dry Sales			60%	£0
	Catering £0		100%	£0
	Accommodatic £0.00		33%	£0
	Other £0.00			
Total dry Sales	£0	Total Dry Profit		£0
Total Turnover/ Gross Profit	£80,000	Total Profit		£33,600
Expenses		% Of Total Turnover (Exc Machines)		
WAGE COSTS		12.1		£9,680
STAFF NI		1.5		£1,200
RATES		1.5		£1,200
UTILITIES - VAT		5.3		£4,240
UTILITIES NON VAT		0		£0
REPAIRS		3.6		£2,880
INSURANCE		0.6		£480
STOCK / ACCOUNTANT		1.3		£1,040
CLEANING		1.4		£1,120
LICENSING - VAT		0.4		£320
ENTERTAINMENT		3.6		£2,880
MARKETING/ PROMOTIONS		1.1		£880
TELEPHONE		0.6		£480
TRAVEL/ CAR		0.7		£560
BANK CHARGES		1.3		£1,040
SUNDRIES		1.8		£1,440
LICENSING - NON VAT		0		£0
		36.8		£29,440
				£4,160
Rent				£12,500
				-£8,340.00

86 Email to BIS, February 2013

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0657083

[REDACTED] (CCP)

From: Dave Mountford [REDACTED]
Sent: 06 February 2013 16:49
To: [REDACTED] (CCP)
Subject: Meeting last week
Follow Up Flag: Follow up
Flag Status: Completed

I hadn't forgotten our conversation regarding further information, but have been tied up with my Toby Perkins event and the general running of the Pub.

I can however confirm one figure for you having spoken to Fair Pint, Chris Wright of PAS and Steve Corbett we feel that between us we receive over 10 cases a week that directly relate to the PUBCO model.

Hopefully that will help you some.

Can you confirm exactly what further information you require.

Best wishes

Dave Mountford

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87 Emails, February 2013

From: (CCP)
Sent: 01 February 2013 14:05
To: McLynchy Julie (CCP)
Subject: FW: Toby Perkins Round table

To be aware in case anything goes pear-shaped. Though I think it is a good and unexpected result.

| Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET | Direct line: :

The Department for Business, Innovation & Skills (BIS) is making a difference by supporting sustained growth and higher skills across the economy.

BIS: Working together for growth

From: Dave Mountford [mailto:]
Sent: 01 February 2013 11:43
To: (CCP)
Subject: RE: Toby Perkins Round table

Many thanks for this – will keep you very much updated

dave

From: (CCP) [mailto:]
Sent: 01 February 2013 11:27
To: Dave Mountford
Subject: RE: Toby Perkins Round table

Dear Dave,

Thank you for keeping me in the loop about this - much appreciated.

I'm very happy for you to discuss the strong Adjudicator option at the round table discussions in order to get feedback; it will be good to hear what people think and also to explain further what the reference to the Adjudicator in the Secretary of State's letter meant. All I would ask is that you make clear that - as Ministers have said - the Government has an open mind, that both the free of tie option and other alternatives are on the table and that we will look forward to hearing views and receiving evidence in the consultation.

Hope the event goes well,

Victoria Street, SW1H 0ET | Direct line:

The Department for Business, Innovation & Skills (BIS) is making a difference by supporting sustained growth and higher skills across the economy.

BIS: Working together for growth

From: Dave Mountford [[mailto:](#)]
Sent: 01 February 2013 10:09
To: (CCP)
Subject: Toby Perkins Round table

Good morning. Toby Perkins has asked me to give a brief talk at his shadow round table discussions on Tuesday.

I am scheduled to chair a discussion "is there an alternative to the free of tie option ?"

Firstly obviously I would like to keep you informed of anything I am involved in outside of your invitations re the consultation process.

Secondly I would like to raise the proposal that you discussed with me on Tuesday – that of the strong adjudicator and wanted to make sure you are happy for me to discuss this point with a view to getting further opinion and input.

Can you confirm your thoughts.

Regards

Dave

88 IFBB notes for meeting with Jo Swinson, 7 February 2013

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D13/656153

Notes for meeting with Jo Swinson MP
at BIS – Thursday 7th February 2013

Independent Family Brewers of Britain (IFBB) was founded in 1993 to defend the tie. The twenty-nine members contribute half a billion pounds per annum to HM Revenue and Customs.

Number of pubs:	4030
Number of breweries:	29
Number of tenancies:	3,034
Number of leases:	122
Number of managed houses:	874

- Commitment to invest in maintaining many old listed and heritage buildings (including breweries) and to invest in the future of brewing and local/rural employment.
- We all support the principle that a tied tenant should be no worse off than a free of tie licensee over the life of a trading agreement. In addition we are committed to ensuring that there is no abuse of the Industry Framework Code.

Summary of SCORFA Services

- Lower rents: Tied rents tend to be 30% lower than free of tie rents.
Tied rents 9-12% of turnover. Free of tie rents – 12-16% of turnover (higher in London).
- Cover cost of building repairs, development, insurance and surveyor services.
- Discounts from standard Free Trade price list.
- Services/discounts:
 - Professional fees including rate reviews, game machine consultancy, food consultancy.
 - Training courses for licensee + staff.
 - Licensing support such as change in DPS, variation, payment of fee and reviews.
 - Life assurance.
 - Access to financial loans at relatively low cost.
 - Reduced membership fees and additional benefits e.g. BII and Cask Marque.
 - Cellar equipment.
 - Legal and compliance assessed – fire inspections, Health & Safety, Food Standards.
 - PR advice and support.
- Marketing support including:
 - Website development, digital marketing and social media advice.
 - Promotional deals.
 - Marketing advice and investment.
 - Brand support – glasses, POS material.
 - Charity support to put our pubs at the centre of their communities.
 - Wine and food development advice.
 - Signage and external appearance support.
 - Support of responsible retailing campaigns such as Drinkaware.
- Preferential purchasing terms including:
 - Utility suppliers.
 - Dispensing gases.
 - PHS.
 - Boiler maintenance.
 - Food suppliers.

Regulatory vs. Non-Regulatory Approach

- Family Brewers will agree to implement Version 6 of the Code of Practice on a voluntary basis.
- This will have costs for PIRRS/PICAS etc. which we will support EVEN though the investigation has not covered what we do and we haven't any formal complaint about Family Brewers to our knowledge.
- If we were to be covered by Statutory Code it would be wholly unfair, not based on evidence and we would be forced to consider a legal review as it could be potentially catastrophic for Family Brewers.

Tied vs. Free of Tie

- See Attached Schematic of Different Types of Agreement used in UK Pub Market
 - This is indicative only and does not cover all agreement types
- Pub Owning Companies aim to compete for the best licensees by making their Agreements as attractive as possible
- Each Agreement Type carries Risk vs. Reward
 - **Traditional Brewery Tenancy =**
Lo Capital + Hi Support + Lo Rent + Hi Beer + Easy Exit
= **Lo Risk**
 - **Free of Tie FRI Lease =**
Hi Capital+ Nil Support + Hi Rent + lo Beer + Sale to Exit
= **Hi Risk**
- What is SCORFA?
 - 'Special Commercial or Financial Advantage' to sustain an Exclusive Purchasing Obligation (under EU Law), commonly known as 'The Tie'
 - There are three levels
 - (1) Rent/Product Price 'mix'
 - (2) Property obligations (i.e. repair, insurance, capital development, health and safety)
 - (3) Support Services (i.e. training, business advisory, marketing, promotion, website/digital)

Overarching Principle :: 'No Worse Off'

- The Tie is an excellent business partnership and fulfils Overarching Principle that Tenant/Lessee is No Worse Off than Free of Tie over the life of the Agreement, if

$$\begin{aligned} &\text{Rent + Beer Price + SCORFA} \\ &\geq \text{'Free of Tie'} \end{aligned}$$

- Abuse of Tie would exist if averagely competent licensee could demonstrate that over life of his Agreement

$$\begin{aligned} &\text{Rent + Beer Price + SCORFA} \\ &\leq \text{'Free of Tie'} \end{aligned}$$

- There is no fixed formula for Agreements
 - 'Abuse' can only be determined by reviewing the individual elements of each Agreement

Should the Code include a Mandatory Free of Tie Option?

- Key issues :
 - What does this mean? Free of Tie or Free of Tie prices? Impact on other elements of Agreement?
 - Is this a single event and 'one-off' election or can lessee switch in and out at will?
 - For whom? Leases? Tenancies?
 - Under what circumstances? Following upheld complaint? New Agreement? Rent Review?
 - Free of Tie FRI lease cannot be covered by Code?

- The Mandatory Free of Tie option is highly undesirable, would create chaos in implementation, and increase the risk for licensees ...
 - If applied to Traditional Brewery Tenancies (Type F) ... is unworkable
 - If applied to Tied Leases (Type D & E) ... would result in Pub Owners withdrawing all Support and Property Services
 - If applied to FRI Leases (Type C) ... would result in Pub Owners moving Agreements to Free of Tie FRI (Type B) where business failure is higher

Tied vs. Free of Tie Schematic of Different Types of Agreement

→ turnover of tenancies
c. 70-80%

	Free House A	Free of Tie FRI Lease B	Tied Lease +FRI (Tenant) C	Tied Lease +FRI (Landlord) D	Partial Tie* FRI Landlord E	Traditional Brewery Tenancy F
Example Operator	Independent	Independent Landlord Wellington Pub Co	← Large Pub Companies →			→ Family Brewers ←
Risk/Reward						
Term	Indefinite	<30 years	← <20 years →			6 Months Notice
Transferability	Freehold ✓		← Lease Assignment ✓ →			X
Capital at Risk	Hi					Lo
Property Obligations - Landlord	Owner/Occupier	Lo				Hi
- Tenant		Hi				Lo
Rent Level	N/A	Hi				Lo
Product Price	Lo/Loan?	Lo				Hi
Support Services	Nil	Lo				Hi

+ FRI = Full Repair and Insurance

* Partial Tie = Free for one or more product types (i.e. wine or spirits)

89 IFBB: What the Tie means to the Family Brewers

(10)

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The Independent Family Brewers of Britain

What The Tie means to the Family Brewers



January 2011

Executive Summary

There has been much political and trade debate over the past 2 years over the use of the Tied pub system by pub companies and breweries alike. Much of this has surrounded the larger pub companies, and this has served to damage the reputation of the Tie generally and to the Family Brewers, to whom the Tie is of paramount importance.

Abolition of the Tie will result in brewery closures, the loss of well-known and respected beer brands and the loss of more of the great pubs for which Britain is famous. This will impact on all communities – suburban and rural – in terms of the loss of the hub of that community, and jobs for local people and local suppliers, plus also have the effect of reducing consumer choice and competition.

There are 3 key reasons for the continuation of the Tie

1. It is in the best interests of the tenant

With the security of the Tie, the brewers buy, insure and maintain the properties operated by their tenants. This provides a very low entry cost for tenants setting up a business, creating new employment opportunities for entrepreneurs. When sales increase or decrease, the system causes the financial impact to be shared between the pub and the brewery, thus lowering the tenant's risk.

As the businesses are co-dependent, IFBB members provide extensive support services to tenants which are not available to licensees operating in the free house market. This is particularly helpful in a difficult economic climate. Not surprisingly then, IFBB members have a lower turnover of tenants compared to the industry as a whole.

2. It is in the best interests of the consumer

The Tie benefits the consumer by enabling a wider choice of locally brewed beer brands, particularly specialist cask beers, than would be available if Family Brewers ceased to exist. They also enjoy well-invested pub premises which compete vigorously with other on-trade outlets in their local markets.

3. It is in the best interests of our local communities and economies

The Tie benefits geographically diverse local communities and their economies by guaranteeing jobs at the brewery, in its pubs and with suppliers to the business.

IFBB members are major employers in many fairly small towns. Employment at the breweries is important for those involved directly and for suppliers of ingredients and services. Each pub provides employment, often in small communities, and in rural areas many pubs are given a lifeline to remain open because IFBB members take a long term view about viability and will support licensees as they grow the business.

Tourism is a vital part of the economy and a visit to some historic pubs is high of the list of things to do for visitors to the UK. The IFBB members strongly support this by maintaining and preserving many of the most historic pubs in the country, for the benefit of visitors and local residents alike.

Why should you support the IFBB Members?

- The abolition of the Tie will inevitably result in **PUB CLOSURES**, some of which are likely to be in rural locations where amenities may already be limited
- **WE** are **GOOD EMPLOYERS** – many of our brewery employees and tenants have worked with us for generations, and between us we currently employ around 36,000 people in our breweries and within our pubs
- We are **LONG TERM** – we have been around for hundreds of years. Between our 29 members we have over 4,400 years of brewing history behind us – that's an average of over 169 years each
- We provide a **VITAL ROLE** within the communities in which we serve. For example, through charitable fundraising support, and through initiatives such as Pub is the Hub, where pubs now provide a range of services including operating as Post Offices, Village Stores and town hardware stores
- We are an important part of **REGIONAL HERITAGE** – each region's beer has its own distinctive qualities and flavours
- We are a unique and integral part of the **UK'S HERITAGE** – no other country has such a rich history of brewing cask conditioned beer and traditional pubs
- **CASK BEER** supports **BRITISH INDUSTRY** – cask conditioned beer predominantly uses all British sourced, and often regional, ingredients

Background to the Independent Family Brewers of Britain (IFBB)

Historically, breweries were major local industries, and in the early 1900's there were over 600 in the UK. The IFBB was formed in 1993 to represent a distinct and unique sector of the UK brewing industry - the family owned brewery – and to defend the Tie and highlight its importance to the longevity of breweries and success of tenant licensees. Membership in the last 10 years has fallen from 38 to just 29 members, due to breweries closing or being bought by larger concerns.

Today, our 29 members between them own 4,200 pubs throughout England and Wales, providing employment for around 36,000 people. The majority of these pubs (around 77%) are run under the brewery Tied tenancy system (where the brewer maintains the fabric of the public house), with both new and experienced pub licensees benefiting from comprehensive training and support from their local brewer – our member. In addition, our members brew over 450 brands of beer and are working hard to introduce these brands to a new generation of beer drinkers, thus providing excellent choice for the consumer in both our pubs, within the free trade (including pub companies) and in bottle and can, to be enjoyed at home.

The History of the Tie

The origins of the Tie lie in the brewers desire to ensure the quality of their cask beers, due to the natural short shelf life of the product. By buying pubs near to their roots, brewers were able to produce and distribute quality beers, to be enjoyed locally by their customers.

The Tie is a mutually beneficial agreement between the landlord brewer and the tenant licensee. The tenant rents premises from the brewer at a reduced commercial rate and is supplied by that brewer with a range of products. The brewer therefore has a marketing outlet that guarantees the distribution of their beer, and the tenant the opportunity to run his or her own business at a lower start-up cost.

In recent years, the brewing industry has been changed dramatically by issues from the Beer Orders of 1989 damaging it irreversibly. The Beer Orders encouraged the proliferation of long leases, giving businesses the ability to charge a premium and assign the lease once the business had built up - this had the effect of creating more of a property market type assignment. As a result of the Beer Orders, a pub owning brewer was limited to 2,000 pubs (none of our members have more than 400 pubs in their respective estates), and this eventually led to the formation of pub companies which tended to operate more like a property company than a pub owning brewer.

In recognition of the unique operating conditions IFBB members operate under, the European Commission gave the Family Brewers' Tie block exemption from competition law, and this was renewed again in early 2010 for a further 12 years. There have been around 20 interim reviews in the past 40 years by UK and EU authorities of the Beer Orders and in all cases the brewery Tie has been judged to be fair to all parties. However, the Orders have continued to result in closed pubs, closed breweries, higher prices and a decrease in brand choice.

The publication of the Business and Enterprise Committee (BEC) report, in May 2009, has further damaged the reputation of traditional brewery tied tenancies within the trade and media. However, following this report, all IFBB members have taken on board the recommendations of the report and are introducing their own industry accredited Codes of Practice, much of which was already standard practice within their operations.

The traditional pub usually has one of three forms of ownership, giving rise to different bases for the Tie:

1. Freehold – where the owner licensee buys the pub outright and is therefore free to buy all products from any source. Often the owner licensee will take loan finance from a supplying brewer in return for a product Tie (Tie by loan)
2. Long (assignable) lease – where a premium may be paid for the lease at a point when it is assigned. These leases may operate on a tied or free-of-tie basis, dependent on the landlord / lease owner
3. Traditional brewery Tied (non-assignable) tenancy – a shorter term tenancy agreement, typically for a 3 to 6 year term, with a full or partial drinks Tie, as offered by our members

It is worth noting that recent research has indicated that over 57% of pub failures in the UK in recent months have been free-of-tie pubs. Equally, if a licensee has bought an assigned lease and subsequently failed, this has usually come about because of the terms of acquiring this lease from a previous lessee rather than the Tie itself. Within the IFBB membership, during 2009 only 41¹ pubs were closed permanently – compared to an industry average of 39² pubs per week (2,365 in the year).

How does the Tie work?

The Tie has the effect of creating a dry rent and a wet rent payable to the brewery by the tenant licensee.

- The dry rent is fixed (subject to rent reviews, which are covered within the tenancy agreement) and is the element for renting the building from the brewery. The rent is determined by the pub's past beer sales volume and on predicted Fair Maintainable Trade (the level of trade achievable at the pub, if that pub is run by a reasonably effective operator)
- The wet rent is variable, since it is a percentage of the prices paid to the brewer for stock i.e. beer and other products. Hence this wet rent then varies in line with the pub's beer sales and the tenant pays rent only on what he sells. This offers the tenant some protection during a downturn because, if sales reduce, so will this element of rent. If the Tie were to be abolished, then this protection would disappear and the fixed cost to the tenant would increase significantly

A Tied tenancy offers lower rents than in commercial property situations because:

- The brewer can make a single delivery of a range of products, thereby improving distribution efficiency
- The brewer can afford to look long term at investment because of the secure distribution channel
- The rent has traditionally been calculated on beer volume and Fair Maintainable Trade figures (the level of trade achievable at the pub, if that pub is run by a reasonably effective operator) rather than a full commercial rent based on the value of the property, its location and total square footage of the building

The Tie and the Consumer

The Tie operates in the best interest of the consumer by maintaining both product and pub choice. Within the operation of the Tie, brewers make available a wide range of products to their tenants, including those of the major European brewers. The Tie allows brewers to invest considerable capital and resources into developing new products to meet consumer demand, and also to invest in improving their pubs and facilities.

The Tie and the Tenant

The brewer will offer a full support package to its tenants including full access to a Business Development Manager, training, marketing and promotions advice and product knowledge awareness. This support is often referred to as SCORFAs (Special Commercial or Financial Advantages) and has been calculated to be worth £8,040 to a licensee in their first year of a tied tenancy.

The Tie and the Brewer

The Family Brewers provide a vital part of the UK's brewing heritage, and the abolition of the Tie would see this tradition lost.

The Tie gives the brewers the opportunity to:

- Have an outlet for their own beer
- Secure the sales of a certain volume of beer, through trading with their own tied houses, thus safeguarding brewery jobs and the breweries themselves
- Develop and promote new beers with confidence, giving the consumer more choice and variation

¹Research conducted by CGA Strategy for the British Beer & Pub Association February 2010

²Source: IFBB Annual members survey 2010

³Research conducted by CGA Strategy for the British Beer & Pub Association February 2010

Facts and figures

During 2010 the IFBB independently surveyed over 1,300 of their members' tenants, representing approximately 42% of the total Tied tenancies operated.

Within this survey:

- 72% agree they receive good overall support from their Head Office
- 56% of tenants agree their rent is fair for the business they do, with only 26% disagreeing. Given the nature of this question, this is a positive result in light of the current economic climate and the negativity surrounding Tied tenancies
- 72% agree their brewery has lived up to their expectations so far, with only 9% disagreeing
- 83% would look to renew their agreement when their current agreement expires



"The Independent Family Brewers of Britain represent all that is best in the world of beer and pubs. For generations these businesses have carefully nurtured and improved their properties, which are 4,200 of the best places in the country to find a warm welcome, good food and great beer. Unlike many pubs these days you will still find the name of the brewery on an IFBB member's pub, and that name will probably indicate which cask beer is available inside.

Innovation is a hallmark of these companies and they rarely sit still. New beers are being brewed and many hundreds of pubs improved with investment capital. In a very tough trading environment our members will continue to steadily improve their properties and supply the highest quality beers to enjoy in them.

In the end we stand for the enduring pleasures of high quality products, well run pubs and moderate beer consumption, providing discerning customers with products that they choose to buy."

Paul Wells - Chairman of the IFBB

"Without the right to tie pubs, the Family Brewers wouldn't bring their beers to the bar. Closures amongst the smaller brewers would be inevitable. The tie is a viable way for them to run their pubs."

Mike Benner - Chief Executive, CAMRA

"Having been with the company for 22 years, it still feels like a family company and the hierarchy are still approachable and very supportive. When I recently asked for help with refurbishing or toilets they assisted with capital investment, and managed the project from beginning to end. The other business support from our brewery in the form of beer discounts, the Master Cellarman scheme, beer quality, the Tenants Extra publication and our BDM, backed up by a great range of products, provides substantial benefits over anything I could expect from a Free of Tie scenario, whether freehold or leasehold."

Martin Perkins - Brewery tenant, Croydon

"The Family Brewers guard and cherish the distinctive business model of the traditional tied tenancy. ALMR applauds the fact that they know their pubs, they understand the history and their close engagement in support of the business success of their tenants sustains their long term future at the heart of the nation's affection."

Nick Bish - Chief Executive, ALMR

"Cask beer is one of the few growth areas in pubs today largely driven by regional brewers. Having their own estate as a shop window for their brands allows the consumer more choice and a significantly better quality product. Being a brewer and a retailer means they can confidently invest in cellars, equipment and training and show by example how other pub operators can benefit their business. Cask beer is only found in the British pub which is part of Britain's culture and in many villages the pub is the centre of the community."

Paul Nunny - Director, Cask Marque

"The reason we decide to join our brewery having been at a large pub company for many years was because we like the fact we would no longer be a number - we are a name. In return we have had great service, products, a marketing manager and most importantly services of an excellent BDM. We truly believe we would not get this back up if we were Free of Tie."

Alan Gover - Brewery tenant, Aldershot

"These are difficult times in which to do business - you need someone on your side. There is a very real sense that my brewery isn't just along for the ride. Our success, and their success, is indivisible, and it's reassuring that they are behind us in our enterprise."

Chris Maclean - Brewery tenant, Faversham

Chairman

Paul Wells

Charles Wells Limited
The Brewery, Havelock Street
Bedford MK40 4LU
Email: paul.wells@familybrewers.co.uk

Operations Group Chairman

Nigel Bunting

Shepherd Neame Limited
The Faversham Brewery, 17 Court Street
Faversham Kent ME13 7AX
Email: nigel.bunting@familybrewers.co.uk

Marketing, PR and Administration

Jo Lynch

Spring Cottage Offices
28 Spring Lane, Great Horwood
Bucks MK17 0QW Tel: 01296 714745
Email: jo.lynch@familybrewers.co.uk

90 PICA-Service report

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The Pubs Independent Conciliation and Arbitration Service Report

The PICA-Service was established in late 2011 and was launched on 1st March 2012 in order to offer tied tenants and lessees a dispute resolution service in respect of their Pub Co or Brewery landlords failing to act in accordance with, or in accordance with the spirit of, their Code of Practice. This short report is intended to indicate how the PICA-Service is operating and the degree of interest in the service. The report will also highlight areas that require further development as the service matures with time to ensure that it is fit for purpose.

Number of Enquires

Since its inception in March 2012 the PICA-Service has recorded 42 enquiries into whether the service can be of assistance to licensees. Each of these 42 enquiries have received an information pack for the PICA-Service, consisting of a standard covering letter, the PICA-Service procedure paper in circulation at the time of their call and finally the tenant/lessee application form. Each call requires a minimum of 20 minutes for the administrator to adequately discuss the service and to ascertain the alleged breaches by the Pub Company.

Enquiries are received by way of telephone or email through the PICA-Service website.

Number of Cases

The PICA-Service categorises a case as being 'live' within the service if a completed application form has been received from the tenant. The cases are then further categorised as either being:

- 'Active' where they are progressing through the service in accordance with the terms of the procedure paper,
- 'Stalled' is where a case remains in a period of inactivity due to delay caused by the tenant and
- 'Closed' where a case has been successfully completed via a Panel Hearing, closed by the tenant/lessee or where the parties have mutually agreed a satisfactory conclusion to the complaint¹.

In total the PICA-Service has recorded 16 'live' cases since March of last year. These can be broken down into the following categories:

'Active' Cases: The PICA-Service currently has 5 active cases. Of these 5 cases:

- 2 of the Pub Companies involved have made offers to the complainant in an attempt to resolve the matter prior to the complaint going before the Panel hearing. As the complainants are each currently considering the offer before them they remain active within the PICA-Service database.
- Of the remaining 3 cases, 2 have been identified as having not yet completed the Pub Co's internal grievance procedures and are therefore currently meeting these requirements. The Pub Co's are however subject to the PICA-Service timescales to complete their internal grievance procedure within 21 days. The 1 remaining 'active' case was recently received and is in the initial stage whereby the PICA-Service request confirmation that the Pub Co's internal grievance procedure has been completed.

¹ Where a complaint is recorded as being closed on the advices of the tenant/lessee or where the parties have mutually agreed a satisfactory conclusion the PICA-Service ensures written evidence of this is obtained from the complainant before the case is 'Closed'.

'Stalled' Cases: The PICA-Service currently has 2 stalled cases recorded. Of these:-

- 1 case remains stalled due to prolonged periods of inactivity by the complainant. There has been recent communication with the hope of reinstating the case however this is dependent on the complainant providing further information and completing the relevant Pub Co's internal grievance procedure.
- The complainant for the remaining 'stalled' case has indicated that they wish to take the matter to court as opposed to the PICA-Service as a result of their issues predating the 30th June 2010 when the Industry framework code came into being. Furthermore, their complaint is rooted more in legal argument than based on breaches of a Code of Practice.

'Closed' Cases: The PICA-Service has recorded 9 closed cases. Of these 9 closed cases:

- 4 cases have been completed by way of a Panel Hearing. Of these 4 cases:
 - a. 1 case was put before the Panel in a preliminary format to discover whether the elements of the complaint were able to be heard by the PICA-Service. The Panel determined that the elements of the complaint predated the coming into being of the Industry Framework Code of Practice.
 - b. Of the remaining 3 cases, 2 cases were found in favour of the tenant/lessee's complaint, either in part or in their entirety. This resulted in compensation being awarded to both complainants and each being invited to apply for the recovery of their costs. The Panel found that in the matter of the remaining case that no breach of the Code of Practice had occurred.
- 4 cases have been completed by way of the tenants and their respective Pub Co's in the knowledge that a PICA-Service application had been made agreeing a satisfactory compromise and asking that the appropriate Hearing did not proceed.
- The remaining case has been closed by way of the complainant notifying the PICA-Service that they no longer for the moment wish to utilise the service to resolve their dispute with their Pub Co. They are continuing with their negotiations.

Of the total number of enquiries received 38% have converted into 'live' cases.

Reasons for this conversion rate

The PICA-Service believes that such conversion rate is a result of a number of factors. For example:-

- The tenant at the time of making their initial enquiry had yet to lodge their grievance with their Pub Co

- The internal grievance procedure detailed within the appropriate Code of Practice had not been completed
- The Pub Co's are reluctant to appear before the PICA-Service panel given the adverse publicity this may attract and, having become aware of a problem, are much more inclined to agree an equitable solution as a result.

Areas for improvement

There are a number of ways which the PICA-Service can continue to improve on the work already done. Particular potential areas of improvement are:

- **Increased awareness:** The service is not currently as widely recognised as it should be. PICA-Service must engage with Pub Cos to provide further literature to tied tenants and lessees about the existence of PICA-Service (and PIRRS). A two sided 'at a glance' leaflet could suffice to provide factual information on the service and if provided to the Pub Companies they could issue these to their tenants and lessees.

PICA-Service has nonetheless addressed the Landmark Licensed Trade Summit, has provided information to the Publican's Morning Advertiser on a case by case basis and has liaised with the same publication in affording an extensive interview article on the workings of PICA-Service in a full and transparent manner.

- **Increased clarification:** One of the principle preliminary issues is a lack of knowledge that tenants/lessees should complete their Pub Companies' internal grievance procedure before utilising the services of the PICA-Service. Therefore, it would be helpful if Pub Co's could produce a one page diagram identifying for a tenant to whom they must refer their complaint and in what order to fully comply with the Pub Co's internal grievance procedure as detailed within their Code Of Practice.
- **Website interaction:** the PICA-Service could develop its website facilities and provide a 'chat now' facility which is becoming more and more popular with other websites. This would enable the PICA-Service to communicate with visitors to the website instantly and answer any questions they may have.

91 SIBA email

301

013/656066

[REDACTED] (CCP)**From:** McLynchy Julie (CCP)**Sent:** 31 May 2013 14:56**To:** [REDACTED] (CCP)**Subject:** FW: SIBA DDS**From:** [REDACTED] (CCP)**Sent:** 05 March 2013 16:48**To:** McLynchy Julie (CCP)**Subject:** FW: SIBA DDS

Julie,

To be aware.

[REDACTED] ; Assistant Director, Competition Policy | Department for Business, Innovation and Skills | Victoria 1, 3rd Floor, 1 Victoria Street, SW1H 0ET | Direct line: [REDACTED]
 The Department for Business, Innovation & Skills (BIS) is making a difference by supporting sustained growth and higher skills across the economy.
 BIS: Working together for growth

From: nick stafford
Sent: 04 March 2013 10:29**To:** [REDACTED] (CCP)**Cc:****Subject:** SIBA DDS

Dear Mr Mountford,

I am writing to you openly in response to your email, which I understand you have sent to a large number of members of SIBA, eliciting their support for your campaign for the introduction of the statutory right of a free-of-tie option in leases for public house operators. I am sure our 650 plus members will be keen to respond with their views and opinions.

As Managing Director of SIBA DDS I am extremely concerned with your factual inaccuracies and claims of improper administration of this company. Your accusations of administrative shortcomings, restrictive practice, price fixing, and wanton de-listing of brands shows you to be totally uninformed of information which is in the public domain. Your assertion that the "GMB is not anti SIBA or their DDS" screams a contradiction of the highest order.

SIBA cannot reconcile its DDS with the descriptions quoted by the GMB and would welcome an opportunity to explain to the GMB how the scheme actually works. DDS was devised as a way of enabling smaller brewers to get their beers listed with pub companies and has achieved that goal in spades. Now that more pubcos are relaxing the beer tie, SIBA brewers are increasingly selling their beers direct to them. SIBA brewers increased sales volumes by an estimated 6.8% last year, so clearly they are finding a way to put their beers before the growing number of consumers demanding their quality craft beers.

SIBA represents the largest number of brewers in the UK and would be well qualified to represent the diverse range of opinion of brewers in any evaluation of the pros and cons of statutory proposals to introduce a free-of-tie option to public house leases.

I find it difficult not to support the GMB in the first instance in its efforts to better the lot of tied licensees or any other person trying to make a living in the beer industry. The level of support for any campaign, however, must be based on that campaign meeting the moral, ethical and professional standards set by SIBA on itself and its members.

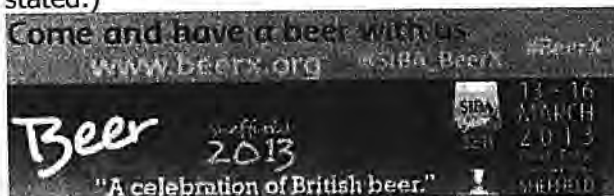
I will be pleased to meet and discuss with you. Just let me know.

Yours sincerely,

Nick Stafford
Managing Director SIBA DDS

Proud of Beer Film

(SIBA is a Company Limited by Guarantee and is the sole shareholder of SIBA DDS Ltd and SIBA TS Ltd. All commercial transactions are contracted with SIBA DDS Ltd or SIBA TS Ltd unless specifically otherwise stated.)



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This email was received from the INTERNET.

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92 Email to BIS, 5 January 2013

(CCP)

305

D13/669576

From: siclarke
Sent: 05 January 2013 21:44
To: (CCP)
Cc: (CCP); (CCP); (CCP)
Subject: Re: Pub Industry
Attachments: ippr_tieddown_aug_2011.pdf

Third email.

Please see attached and go to Table 2.1 on the bottom of the page marked 5 (its page 7 if your scrolling).

You will see that as a result of the beer orders the ownership of pubs simply shifted from brewers to pub companies - there was little change in 'Free house' ownership.

The concern here is that with the failure of the tied model and revocation of beer orders the ownership will simply slip back to the brewers, undoing the most significant positive achievement of the Beer Orders - improved consumer choice, brewers typically restricting their lessees and tenants to brewery products only.

This is one of the reasons IPC remain convinced a free of tie option with an open market rent review is the only approach thus far suggested that may resolve the biggest issue of the pub sectors problems.

IPC are aware that the small family brewers have a certain amount of sympathy not least from their constituent MP's, CAMRA and Save the Pub Group and have therefore agreed that any pub owning company with less than 500 pubs should not have to offer the free of tie option. CAMRA are IPC members and have backed the FOT option.

None of the really big international brewers have pubs any more (with the exception of Molson Coors who bought out Sharps Brewery) which leaves the national brewers under the banner of the Independent Family Brewers of Britain (IFBB) they have 30 members and own in total 4,200 pubs. No one member has more than 500 pubs. Of the bigger national brewers, Marstons have 1,650 leased or tied tenanted pubs and Greene King 1,400 tied leased or tenanted.

The acquisition activity of Greene King, Fullers and Shepherd & Neame in the last 12 months shows they are already on the expansion trail (despite the duty escalator, and supermarket prices).

Other than Greene King and Marstons who would have to offer a FOT option, the real reasons IFBB members do not like the free of tie option proposed are two fold :

1. they are aware that if there are more genuine free of tie agreements, at fair rents, their tied agreements will be uncompetitive and unattractive and they will have trouble finding new tenants as business failures continue due to the real inequity of their agreements and they churn their estates
2. a limit on ownership of pubs under tied agreement terms restrains them from buying back pubs from the failing pub companies, which is their longer term plan along with seeing the closure of perhaps another 5-10,000 pubs

Under the free of tie option proposed no independent family brewer (remembering Marstons and Greene King are not IFBB) would be required to offer the option on any of their existing estate and they could even continue to expand to a total of 500 after which they would have to start offering the option to their lessees and tenants. This does not restrain them from expanding beyond 500 but does encourage them to ensure that their agreements will have to be seen by lessees and tenants as mutually beneficial if they expect to grow their tied estates beyond the 500 limit.

Simon

30/05/2013

93 Email to BIS, 5 January 2013

(CCP)

306

D13/669574

From: siclarke
Sent: 05 January 2013 20:40
To: (CCP)
Cc: (CCP); (CCP); (CCP)
Subject: Re: Pub Industry
Attachments: ETI 2002 code.doc

Second email is the Enterprise Inns 2002 company code.

Hopefully assists in demonstrating that the tenant representation groups are not being negative but frustrated at the self regulatory code progress.

You will note it is a code, some leases had it incorporated but it has pub company and lessee obligations so is as binding by the Carbolic Smoke Ball principle as the Version 5 Framework Code to existing lessees, it has various provisions that were cited by the BBPA to BIS as "Immediate Improvements" to the Version 5 Framework Code in December 2011 (abolition of up only rent reviews, training availability, access to information on the pub - letting details, trading information, rent calculation, timescales for taking up occupation availability of price list) as well as others that are absent from Framework Code versions (loan facility, incentive schemes, marketing support, free rating revaluation service, cooling off periods and lessees/tenants choice of arbitrator or independent expert at rent review and a sustainable rent policy allowing mid term rent review. Also offered is an external independent arbitration service should a dispute arise over the code of practice.

I appreciate there have been variations to provisions, but the attached is a 2002 Enterprise code which is apparently legally binding and contains many of the provisions required along with an independent dispute resolution mechanism. The pub owning companies have barely moved on since this other than some tweaks and have sought to retain control over any developments (PIRRS, PICAS, BIIBAS and now the Overarching Governing Body).

Simon

 This email was received from the INTERNET.

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30/05/2013

94 Note of Ministerial Round table with licensee groups

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D13/505414

Pubs: Ministerial Round table with licensee groups 22nd January 2013, 1:00 - 2:00pm

Note of Meeting

Attendees

BIS

- Jo Swinson (Minister)
- (PS)
- Julie McLynchy (Policy)
(Policy)

Licensee Groups

- Peter Thomas, British Institute of Innkeeping (BII)
- Dave Mountford, GMB Union
- Martin Caffrey, Dederation of Licensed Victuallers Association (FLVA)
- Kate Nicholls, Association of Licensed Multiple Retailers (ALMR)
- Nick Griffin, Brighton & Hove Licensees Association
- Mike Benner, CAMRA
- Steve Corbett, FairPint
- Simon Clarke, Independent Pub Confederation (IPC)
- Clive Davenport, Federation of Small Businesses
- Bill Sharp, Guild of Master Victuallers (GMV)

Matters Arising

Principal points made by attendees included the below. Consensus is not implied; as indicated, views of parties were sometimes opposed.

Need for intervention

- Long standing issues, still unresolved.
- About fairness, accountability and transparency.
- All about price: need fair market rents; there should be enough profit for both sides.
- More clarity needed on SCORFA.
- Pubcos don't own the pubs – the bankers do. The pubcos are just servicing det.^{to}
- Adjudicator with teeth is needed.
- Other issues could include guest beer options, no upward only rent reviews, whether people should be able to opt out of the Landlord and Tenants Act.

Free of Tie option

- Simplest solution; gives the choice to tenants.
- May be a route, but does not work by itself. Rents could be increased and pub companies could still find loopholes.
- What do we mean by market rent?
- Need to sustain buying power of large pubco groups – we should have a tie with a discount.

500 pub threshold

- Smaller companies / family brewers are behaving well – do not need additional burdens. Lack of threshold could negatively affect brewers/jobs/pubs.
- Ownership does not determine unfairness – the same rules should apply to everyone.
- 500 is appropriate: a company with <500 pubs unlikely to have significant market power.
- Threshold should be lower; perhaps 100 pubs – only exempt the smallest companies.
- Those under threshold will need to drive up standards in any case to remain competitive.

95 Invitation to a meeting

114

013/43257

(CCP)

From: [redacted] (CCP)
 Sent: 11 January 2013 11:37
 To: 'Brigid Simmonds'
 Cc: [redacted] (CCP); [redacted] (CCP)
 Subject: Pubs meetings

Dear Brigid,

Following our conversation, I would like to confirm that the Minister (Jo Swinson) would like to have a meeting with you and some of your larger members, to discuss the proposed consultation on a pub code and adjudicator.

Key questions that the Minister would like to explore include:

- Should the Code include a mandatory free of tie option?
- Other than the two overarching principles already announced, are there any other particular elements that should be addressed in the Code (taking V6 as the starting point)?
- Who should the new regime apply to? (All companies with over 100/200/500 pubs/tied pubs/tied leases)?

She would also of course be very happy to hear any other points you wish to make.

If you confirm that you would like to come to this meeting, I will ask the Minister's diary secretary to arrange a time.

In addition to this, I would be grateful if you were able to attend an official level meeting with James, our lead economist on this project, and I next week, where we could discuss various aspects that might be relevant to the impact assessment. In particular, we would be interested in exploring elements such as:

- the financial impact on pubcos of complying with the 'tied licensee no worse off' principle.
- the financial impact on pubcos of complying with a mandatory free of tie option.
- the impact on the brewing operation of pubcos/brewers of a mandatory free of tie option. It would be helpful to discuss both the effect on the companies themselves and on UK beer exports.
- the market impact of intervention, in terms of pub sales or transfers from leases to tenancies/managed houses/franchising.

The more this discussion could be quantitative and supported by relevant figures the more helpful this should be. I would add that we would also be very happy to speak to any member companies directly, should they wish to share with us any confidential data that they would not wish to (or indeed could not due to competition law) share with the BBPA.

Of course, we would also be very happy to discuss any other things that you might wish to raise (including franchising).

We are free at any on Thursday up to 4pm and any time on Friday afternoon if these times suit.

I hope to hear from you soon,

Regards,

96 Letter to Vince Cable, May 2011

Date 13/5/11

Dear Mr Cable, I am writing on behalf of firstly my family and all the hard working publicans throughout the country. The subject is the outrageous profiteering of the Pub-cos at the expense of publicans. I have been in the trade for a period of 35 years and have experienced both sides of the trade ie free of tie and tied. I feel that the pub-cos and tied model has had little or no regard for the people that have taken out leases with them in the past 15 years. I was running a pub with Enterprise Inns for 8 years and together with my wife are currently running the pub above for SNPE ie Heinenken on a long term lease of 25 years, of which we are already 5 years into. Both my wife and I would like to point out some facts that you may find interesting pending your forthcoming report into the industry.

In June 2008 Scottish and Newcastle Pub Enterprises were so desperate to re-assign the pub above that they instructed their surveyors to sign off the pub as being in full working order. Despite the fact that the previous tenants left the pub in complete disrepair including the accommodation. In fact it took my wife and I a further 5 months to re-furb both the accommodation so that it was fit enough for our young son [8yrs] and the pub so that it was in operating order. I will not bore with a list of re-pairs suffice as to say that we have only one major job left and that is the flat roof which has not been touched in 25yrs apart from being patched up. Both my wife and I knew what we were taking on and we have put a great deal of our own money into their building without 1 pence contribution from SNPE. So negligent were they that if they were to enforce the fully repairing lease the building should have been put right in the first place by the previous tenants who incidently were promised financial help from their area manager as we have been from our previous 3 area managers or to give them their full title business development managers.

This was to be the start of our relationship with SNPE. I am enclosing an invoice of the rent they charge us. According to the lease the rent can only go up by 2.5% this is known as an upwardly rents only clause. In March 2010 We negotiated a nil increase in our rent till 2015 but because of the clause it has gone up and together with increased building and cellar cooling charges our rent has gone up by £100 per week. They will not let me get Buildings insurance or contract a local cellar cooling expert because they make money by overcharging us and calling it administration fees. Although I am responsible for all contents insurance.

Now we go onto the amount of money they charge us for beer I have enclosed an original invoice from Snpe or now Heinenken and a price list from a beer wholeseller. The difference is frankly is extortionate. Even bearing in mind the £50 pounds per Brewers barrel discount and a further £25 per brewers barrel discount they give me if I hit a target they set quarterly. When we talk about brewers barrels we mean 36 gallons of beer = 1 brewers barrel. The difference between what they are buying the beer at and in Heinenkens case brewing it is scandalous. Just to give you an example as an employee of Heinenken working here in Hereford you can purchase 11 gallons of cider ie strongbow for £40 they charge me for the same amount £134. This applies to all of the beer in their portfolio

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which is all the beer that I sell. The only concession I have is 1 out of 5 real ales is free of tie everything else ie Guinness, Strongbow, Fosters, Kronenbourg, John Smiths, Symonds Cider, and 4 real ales are subject to Heinenkens prices. All wines spirits and food is free of tie. The selling of beer represents 75% plus of my business.

I would like to tell you about AWP machines. In my pub I have 1 AWP machine and 1 quiz machine. SNIPE take 50% of all takings after I have paid the rent and vat. On top of that they dictate to the machine company the rent to charge ie they make 10% over the top. This process is called rentalising.

I hope that your team is looking into these matters thoroughly Mr cable because what is certain is that Snipe or Heinenken are certainly making much more money out of this so called partnership than my wife and I. We employ 7 staff to run this business on top of the 100 hours plus that my wife and I work. We pay all of our taxes and are decent working people. Together with the underselling of alcohol by the supermarkets the pub-cos overcharging, my wife and I will, by the end of this year have to sell our business and lay off all our staff because we are being held to ransom and our profit margins are being continuously squeezed. I implore you Mr Cable to do something for all the pub trade and get rid of these pub-cos once and for all. As for the supermarkets it strikes me that they really hold the government to ransom.

Together with my wife we have always voted Lib-Dem because we believed it to be the party that cared for the working class members of our society. We truly hope that you can help.

Regards

Telephone

Mobile

e-mail

PROPERTY INVOICE



0000015570

0006787/0008386/011 of 1/94100

VAT Registration Number:
GB 268 6449 12

Delivery Address:

Registered office:
Blue Star Pub Company
Limited
2-4 Broadway Park
South Gyle
Edinburgh
EH12 9JZ
Reg No: SC 366273

This Invoice is Payable to:

Livingston
EH54 8YF

Address queries to:
Credit Management Team
First Point
1 Deer Park Road
Livingston
EH54 8AG
TEL: 08458787076
FAX: 01506 471831

PLEASE QUOTE ACCOUNT NO AND INVOICE NO ON ALL CORRESPONDENCE PROPERTY INVOICE

Customer Reference

Account No	Invoice / Credit No	Invoice / Credit Date	Tax Point is					Payment Due Date	Lease No
		25.03.2011	25.03.2011					01.04.2011	20592111

Info.	Description								Value Ex VAT	VAT Value
	CP12CELLAR COOLING SLA - 010311-3103								13.75	2.75
	INSURANCE CHARGE 010411-300411								53.19	9.57
	INSURANCE SAFETY TEST 010411-300411								25.00	5.00
	TENANCY RENT CHARGEABLE 010411-300411								2,922.83	526.12
	CP12CELLAR COOLING SLA - 010211-2802								13.75	2.75
	CP12CELLAR COOLING SLA - 010111-3101								13.75	2.75
	CP12CELLAR COOLING SLA 010411-300411								30.42	6.08

SAND001 260311 043133 STDOUT

VAT Analysis

Code	Rate %	Net	VAT
B1	20.00	2,775.09	555.02
A6	0.00	297.60	0.00

**Payment is due by:
01.04.2011**

Net Total	3,072.69	
Total VAT	555.02	
Total	3,627.71	GBP

Heineken UK

0000019608

0004452/0005651/01/1 of 2/94100

VAT Registration Number:
GB 268 6449 12

Delivery Address:

Registered office:
Heineken UK Limited
2-4 Broadway Park
South Gyle Broadway
Edinburgh
EH12 9JZ
Reg No: SC065527

This Invoice is Payable to:
Heineken UK
First Point
PO BOX 1938
Livingston
EH54 8YF

Address queries to:
Credit Management Team
First Point
1 Dear Park Road
Livingston
EH54 8AG
TEL: 08458787076
FAX: 01506 471631

EASE QUOTE ACCOUNT NO AND INVOICE NO ON ALL CORRESPONDENCE

Customer Reference									
Account No	Invoice / Credit No	Invoice / Credit Date	Tax Point Is	Delivery No	Delivery Date	Delivery Account	Order Date	Payment Due Date	House No
		18.05.2011	18.05.2011	69285738	18.05.2011	531773	16.05.2011	25.05.2011	

Info	Description	ABV%	Qty	Unit of Charge	Gross Price	Disc. Rate	Disc. Value	Net Price	Value Ex VAT	VAT Code
	CALEY DEUCHARS 11 CASK	3.8	4	CALECA	126.00	50.00	61.12	111.32	445.28	B1
	ADNAMS BROADSIDE 9 CASK	4.7	3	CASK9	114.10	50.00	37.50	101.60	304.80	B1
	GUINNESS 11 KEG	4.1	2	KEG11	150.67	50.00	30.56	135.30	270.77	B1
	SYMONDS FOUNDERS RESERVE 11 KEG	5.5	1	KEG11	150.63	70.00	21.39	129.24	129.24	B1
	FOSTERS 11 KEG	4.0	3	KEG11	137.46	50.00	45.84	122.18	366.54	B1
	JOHN SMITHS EXTRA SMOOTH 11 KEG	3.8	2	KEG11	124.63	50.00	30.56	109.35	218.70	B1
	KRONENBOURG 1664 11 KEG	5.0	2	KEG11	157.54	50.00	30.56	142.25	284.52	B1
	BULMERS STRONGBOW 11 KEG	4.5	1	KEG11	134.78	50.00	15.26	119.51	119.51	B1
	Container surcharge included									
	Delivered HUK Containers		13							
	Returned HUK Containers		13							
	Difference									

VAT Analysis

Code	Rate %	Net	VAT
B1	20.00	2,139.36	427.87

Payment is due by:
25.05.2011

Net Total	2,139.36	
Total VAT	427.87	
Total	2,567.23	GBP

All returnable bottles, boxes, crates, casks, kegs and gas cylinders remain the property of the suppliers and a deposit, where charged, is payable with the account for beer; such deposit will be refunded or credit given and when such items are returned in good condition. Price for returnables includes Deposit.

Issued in conjunction with the Company's current Terms and Conditions of Trade.

SAN001_190511_043157_STDDUT

Heineken

UK

0000019348

0004251/0005493/01/ of 1/94100

VAT Registration Number:
GB 268 6449 12

Delivery Address:

Registered office:
Heineken UK Limited
2-4 Broadway Park
South Gyle Broadway
Edinburgh
EH12 9JZ
Reg No: SC065527

This invoice is Payable to:
Heineken UK
First Point
PO BOX 1938
Livingston
EH54 8YF

Address queries to:
Credit Management Team
First Point
1 Deer Park Road
Livingston
EH54 8AG
TEL: 08458787076
FAX: 01506 471631

PLEASE QUOTE ACCOUNT NO AND INVOICE NO ON ALL CORRESPONDENCE

Customer Reference

Account No	Invoice / Credit No	Invoice / Credit Date	Tax Point is	Delivery No	Delivery Date	Delivery Account	Order Date	Payment Due Date	House No
		11.05.2011	11.05.2011	69246172	11.05.2011	531773	09.05.2011	18.05.2011	

Info	Description	ABV%	Qty	Unit of Charge	Gross Price	Disc. Rate	Disc. Value	Net Price	Value Ex VAT	VAT Code
	WYCHWOOD HOBGOBLIN 4.9% 9 CASK	4.5	2	CASK9	109.94	50.00	25.00	67.44	194.88	B1
	CALEY DEUCHARS 11 CASK	3.8	3	CALECA	126.00	50.00	45.84	111.32	333.96	B1
	ADNAMS BROADSIDE 9 CASK	4.7	2	CASK9	114.10	50.00	25.00	101.60	203.20	B1
	DRAUGHT BASS 10 CASK	4.4	1	CASK10	128.69	50.00	13.89	114.80	114.80	B1
	BULMERS STRONGBOW 11 KEG	4.5	2	KEG11	134.79	50.00	30.56	119.51	239.02	B1
	JOHN SMITHS EXTRA SMOOTH 11 KEG	3.8	1	KEG11	124.83	50.00	15.28	109.35	109.35	B1
	FOSTERS 11 KEG	4.0	3	KEG11	137.46	50.00	45.84	122.18	366.54	B1
	SYMONDS FOUNDERS RESERVE 11 KEG	5.5	2	KEG11	150.63	70.00	42.78	129.24	258.48	B1
	QUINNESS 11 KEG	4.1	1	KEG11	150.67	50.00	15.28	135.39	135.39	B1
	Container surcharge included									
	CONTAINERS RETURNED...									
Returned	EMPTY 9 GALLON CASK		6	CASK 9						B1
Returned	HEINEKEN / AMSTEL 50L EMPTY		6	KEG 11						B1
Returned	EMPTY 11 GALLON KEG		2	KEG 11						B1
	Delivered HUK Containers		11							
	Returned HUK Containers		14							
	Difference		3							

VAT Analysis

Code	Rate %	Net	VAT
B1	20.00	1,955.62	391.12

Payment is due by:
18.05.2011

Net Total	1,955.62	
Total VAT	391.12	
Total	2,346.74	GBP

All returnable bottles, boxes, crates, casks, kegs and gas cylinders remain the property of the suppliers and a deposit, where charged, is payable with the account for beer; such deposit will be refunded or credit given if and when such items are returned in good condition. Price for returnables includes Deposit.

Issued in conjunction with the Company's current Terms and Conditions of Trade.

SAN001_120511_043137_STDOUT

Customer Evaluation

This offer is subject to contract and approval based on volumes submitted

Customer Details

Product Description	ABV	Net Price (Pack)
11 CARLING KEG (50)	4.00	£80.83
22 CARLING KEG (100)	4.00	£158.64
450ML GROLSCH NRB12	5.00	£18.06
450ML GROLSCH RB16 SWING TOP	5.00	£16.88
11 WORTH CF KEG (50)	3.60	£80.25
9 HANCOCKS HB TRAD BTR CASK	3.60	£62.86
9 WORTH DB CASK	3.60	£65.81
50 MAGNERS KEG (11)	4.50	£104.66
355ML MODELO ESPECIAL NRB24	4.50	£17.47
10 DRAUGHT BASS CASK	4.40	£84.69
11 GUINNESS KEG (50)	4.10	£104.74
275ML BECKS BIER NRBX24	5.00	£18.37
275ML BECKS BLUE NRBX24	0.00	£14.54
275ML HOLSTEN PILS 5% NRRX24	5.00	£17.14
330ML BUDWEISER NRBX24	5.00	£22.12
520ML GUINNESS SURGER CANX24	4.10	£26.95
9 ABBOT ALE CASK	5.00	£80.89
9 ADNAMS BEST BITTER CASK	3.70	£71.85
9 ADNAMS BROADSIDE CASK	4.70	£85.79
9 BETTY STOGS CASK	4.00	£60.23
9 BISHOPS FINGER CASK	5.00	£76.38
9 BLACK SHEEP BEST CASK	3.80	£74.18
9 COURAGE BEST BITTER CASK	4.00	£68.18
9 DIRECTORS CASK	4.80	£77.33
9 DOOM BAR BITTER CASK	4.00	£66.43
9 EOL BOMBARDIER CASK	4.30	£75.97
9 GREENE KING IPA CASK	3.60	£63.26
9 HARVEYS SUSSEX BITTER CASK	4.00	£79.02
9 HOBGOBLIN CASK	4.50	£76.53

9	JOHN SMITHS CASK	3.80	£73.06
9	LANDLORD CASK	4.30	£91.13
9	LONDON PRIDE CASK	4.10	£82.26
9	OLD HOOKY CASK	4.60	£74.87
9	OLD SPECKLED HEN CASK	4.50	£78.23
9	PEDIGREE CASK	4.50	£77.61
9	REV JAMES CASK	4.50	£76.29
9	RUDDLES COUNTY CASK	4.30	£73.17
9	SPITFIRE 4.2% CASK	4.20	£72.34
9	ST AUSTELL TRIBUTE CASK	4.20	£77.72
9	THEAKSTONS OLD PEC CASK	5.60	£99.58
9	WADWORTH 6X CASK	4.30	£77.20
1.5L	MARTINI BIANCO X6	15.00	£63.15
1.5L	ARCHERS SCHNAPPS NRBX6	18.00	£101.27
1.5L	BACARDI SUPERIOR NRX6	37.50	£160.04
1.5L	BAILEYS NRBX6	17.00	£123.44
1.5L	BELLS WHISKY NRBX6	40.00	£143.15
1.5L	COURVOISIER VS XXX NRX6	40.00	£206.72
1.5L	FAMOUS GROUSE NRBX6	40.00	£144.34
1.5L	GORDONS GIN NRBX6	37.50	£134.77
1.5L	JACK DANIELS NRBX6	40.00	£191.11
1.5L	LAMBS NAVY RUM NRBX6	40.00	£137.66
1.5L	LUXARDO SAMB NRBX6	38.00	£137.84
1.5L	MALIBU NRBX6	21.00	£122.09
1.5L	MARTELL XXX COGNAC NRX6	40.00	£212.38
1.5L	MORGANS SPICED RUM NRX6	35.00	£150.33
1.5L	PERNOD NRBX6	40.00	£155.81
1.5L	SMIRNOFF RED NRBX6	37.50	£127.16
1.5L	SOUTHERN COMFORT NRX6	35.00	£173.19
275ML	SMIRNOFF ICE NRBX24	4.00	£23.25
275ML	WKD BLUE 4% NRBX24	4.00	£22.55
11	STRONGBOW KEG (50)	4.50	£74.40
50	STOWFORD PRESS KEG	4.50	£76.85
568ML	BULMERS ORIGINAL NRX12	4.50	£15.14
568ML	BULMERS PEAR NRBX12	4.50	£15.14
275ML	J20 APP & BLUB NRBX24	0.00	£12.60
275ML	J20 APPLE & MANG NRX24	0.00	£12.60
275ML	J20 APPLE & RAS NRBX24	0.00	£12.60
275ML	J20 ORA & PASS NRBX24	0.00	£12.60
275ML	J20 R GRPE & BCLR NRX24	0.00	£12.60
275ML	J20 W GRPE & KIWI NRX24	0.00	£12.60
1/1			

97 Letter to Vince Cable, June 2011



JALEY
Competition

Department of Business Innovation & Skills
1 Victoria Street
London
SW1H 0ET
Attn: Secretary of State

CCP
70

For your information
21 June 2011
16th June 2011

252559

Dear Dr Cable

I am aware of the good work being done by Greg Mulholland and co. but I wanted to add my experiences to the pub group argument.

I am owner of a manufacturing business supplying brewers and pubs. I also have the lease on the village pub where I live near Eastbourne. The lease is with Enterprise Inns and is generally regarded to be one of the less onerous leases so apparently I am fortunate. I have had the lease for three and a half years but I am planning to assign it before the end of the year.

The pub was my local for 20 years or so, it had in that time fallen into decline with buckets out when it rained, collapsing ceilings, dangerous wiring etc. Unsurprisingly trade was poor. I took the pub on and refurbished it at my cost. I did not expect to make much out of it but that didn't matter, I had other incomes and I wanted the village to have a better pub.

My experience in the last three and a half years has been eye opening. What has become very clear to me is that Enterprise inns (and probably the other pub owning property companies like Punch Taverns) have done a truly huge and devastating amount of damage to the pub industry, the pub supply industry and to communities like the village I live in. My own pub is now trading at the highest barrelage in recorded history. I do not take a wage, we do not have a manager and staff are on minimum wage, yet still we struggle to break even. Needless to say there is no budget for repairs or improvements so there is no investment in the property or the business. That means it's unviable as a business. How can this be possible when we are trading at historically high levels and are clearly the busiest pub in the area? Reason; Because Enterprise take around £100,000 a year out of the pub leaving us cash starved and unable to replace worn out carpets and broken furniture.

With the shortage of money in the pub trade, largely due to the pub groups and property companies, the supply trade has been devastated. My company used to attend several major shows each year at Olympia, G-Mex and the NEC. These shows no longer exist. Attendance dwindled in pace with the growth of the pub groups and many manufacturing and supply companies disappeared. Thankfully we survive and prosper on our innovation but I consider us lucky to be here still when so many good companies have perished.

I am not averse to changing business environments or new trends and practices, so my plea is not motivated by protectionism for my business or my pub. My concerns are for the widespread damage these companies do to communities, local businesses and industry suppliers.

At my pub we have a growers group consisting mostly of old ladies, that meet once a month, they bring in produce from their gardens which we buy with our own currency, we put out tea, coffee and biscuits free of charge, we organise speakers and days out to gardens. For a lot of people this is a highlight of their month and one of the few occasions they can meet with their neighbours.

We nurture young musical talent on our jam nights where experienced musicians take youngsters under their wing to develop their skills. This week we have an auction of promises to raise money for the local church. We have a nativity play each year when the vicar leads 200 plus people down from the church, including children in character, stopping for choirs and reciting the nativity tale as they proceed to the Inn. We then gather in the stable for the nativity scene and hymns. After this the morris men lead the singing in the pub. This is a very important night for the village, it brings people together and teaches the young how to play their part in the community. Then at the summer beer festival the whole village comes out to take up the challenge of the barrel rolling and tug-o-war. These are just a few of the community based activities we arrange.

My plea to you is to enable us to continue with our work, to stop the devastation of the pub industry, stop the killing our community centres. Stop us from being told quite wrongly that the way to run a profitable business is to have happy hours, two for one deals and cheap vodka shots. To stop money being taken from pubs to line the pockets of investors. To make the market place more competitive. To enable pubs to invest in their businesses and maintain these beautiful often listed buildings. To allow the regrowth of the support businesses and free up innovation.

The pub owning property companies formed and grew out of opportunism motivated by greed. They do not have concerns for the community and therefore to my mind have no purpose in our society. I would like to see their demise. All the time there is a way for organisations to exploit pubs for profit they will do and they will find new and devious ways to do it. The door must be shut to these people.

I believe that in our increasingly secular society where overweight children spend long hours in front of computer screens, and where profit driven pub groups and town centre clubs encourage heavy drinking, it is extremely important to have alternative places for people to congregate and be entertained in a professionally supervised environment. A community pub run by a qualified independent person whose income depends on how well he interacts with the community he serves, is the best way of ensuring a sustainable business with all the right motivations.

One good way to change the present situation would be to remove the tie and formalise rent setting.

Yours faithfully



98 Emails to and from Edward Davey

MATRIX:

D13/660 461

Lynx :

274 484

D13/660461: Letter from no MP Mike Bell 274404 11Jan12 - TRIM Document Viewer

File Search Window Help

From: Davey MPST
Sent: 25 November 2011 08:47
To: Davey MPST Correspondence
Subject: FW: [Edward Davey (BIS)] Pub closures

For CCP ([redacted] Team)

[redacted] Assistant Private Secretary to Edward Davey MP, Minister for Employment Relations, Consumer and Postal Affairs| BIS (T: +4420 7215 [redacted])
www.bis.gov.uk

-----Original Message-----

From: webmaster@edwarddavey.co.uk [mailto:webmaster@edwarddavey.co.uk] On Behalf Of [redacted]
Sent: 24 November 2011 19:09
To: Davey MPST
Subject: [Edward Davey (BIS)] Pub closures

[redacted] sent a message using the contact form at <http://www.edwarddavey.co.uk/web/?q=contact/Edward%20Davey%20%28BIS%29>.

I do hope you read [redacted] email to you yesterday. This says it all. There is absolutely no doubt that the pub companies are single-handedly wrecking the British Pub. They are bankrupt both morally and fiscally. They are strangling tied publicans. At first glance this is NOT an easy subject to get your head around, but it is in fact remarkably transparent what they are up to.

Please engage your brain on this. It is VERY important. I know Greg Mulholland may be a lib dem, but he has TOTALLY got the measure of this criminal activity. Please listen to what he has to say. Also Boris J can get quite incandescent. He also TOTALLY gets it. I know because he used to be my MP and we spent some time planning a strategy before he became Mayor. Unfortunately he has his work cut out on other matters.

I will be copying this to Vince Cable.

I can be contacted on [redacted]

[redacted]
[redacted]
[redacted]
[redacted]

[redacted] signatures

Lynx: 274486



From: Davey MPST
Sent: 07 December 2011 16:03
To: Davey MPST Correspondence
Subject: FW: [Edward Davey (BIS)] PUBCOS TIED TENANT NO WORSE OFF THAN FREE OF TIE TENANT - RICS

For CCP

[Redacted] (Assistant Private Secretary to Edward Davey MP, Minister for Employment Relations, Consumer and Postal Affairs) BIS (T: +4420 7215 [Redacted])
www.bis.gov.uk

-----Original Message-----
From: webmaster@edwarddavey.co.uk [mailto:webmaster@edwarddavey.co.uk] On Behalf Of [Redacted]
Sent: 07 December 2011 13:34
To: Davey MPST
Subject: [Edward Davey (BIS)] PUBCOS TIED TENANT NO WORSE OFF THAN FREE OF TIE TENANT - RICS

[Redacted] sent a message using the contact form at <http://www.edwarddavey.co.uk/web/?q=contact/Edward%20Davey%20%28BIS%29>.

Dear Mr Davey

PUBCOS
TIED TENANT NO WORSE OFF THAN FREE OF TIE TENANT - RICS

Following the select committee hearing yesterday you indicated a great deal of emphasis on licensees being able to rely on the BBPA code requirement that RICS guidance would be complied with on rent review assessments.

As was demonstrated in the previous select committee hearing, the pub companies have a very different interpretation of the RICS guidance when addressing the principle that a tied tenant should be no worse off than a free of tie tenant. It is understood and generally accepted, by all but the pub companies, that this principle is a prerequisite to applying the supply tie and therefore should be unquestionable.

It is acknowledged that the current RICS guidance is an improvement upon the last but as the select committee final report, and indeed the Government response, identify there is an issue of interpretation in the RICS guidance. Given much rides on the correct interpretation of this document as well as its compliance, would the Government now write to the RICS and seek immediate clarification of guidance in order to ensure the principle is enshrined in the rent assessment process.

All rent assessments, particularly rent review assessments, should be signed off by a RICS qualified individual. I attach a brief information sheet which I hope is of assistance. Should you have any queries please do not hesitate to contact me.



It is acknowledged that the current RICS guidance is an improvement upon the last but as the select committee final report, and indeed the Government response, identify there is an issue of interpretation in the RICS guidance. Given much rides on the correct interpretation of this document as well as its compliance, would the Government now write to the RICS and seek immediate clarification of guidance in order to ensure the principle is enshrined in the rent assessment process.

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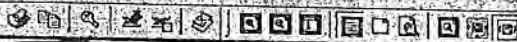
Yours sincerely

[Redacted] MRICS
INDEPENDENT PUB CONFEDERATION
Campaign Manager

ROYAL INSTITUTION OF CHARTERED SURVEYORS (RICS)

1. The Government response relies heavily on surveyors complying with the RICS rent assessment guidance.
2. Only by correctly implementing the RICS guidance can tied licensees be assured that their rent fairly reflects the disadvantages, or advantages, of being tied.
3. The Government response concedes there remains a significant confusion around the interpretation of RICS guidance.
4. The following view of the RICS, before guidance was rewritten expressly stated that;
5. "The Forum heard that there was some confusion in the interpretation of the guidance with the paper. For example in the treatment of the valuation of the wet rent, where it is clear to us that most lease agreements require a valuation largely on the terms of the lease. This follows the principle of the tied tenant being no worse off than the non tied tenant; a position which is arrived at with a correct interpretation of RICS guidance."
(Source - RICS Pub Industry Forum Report and Recommendations (Feb 2010))
6. The guidance has since been rewritten and was intended to accommodate this principle. Whilst we believe those on the drafting panel knew the meaning of what was agreed, confusion of interpretation still reigns, allowing continued manipulation and jeopardising the well meaning spirit of the Government response. Ted Tuppen effectively demonstrated in the select committee witness hearings that his view and that of [Redacted] the Enterprise Inns National Rent Controller, a participant of the RICS working group who redrafted the guidance, fundamentally differed from other working group participants including the IPC and Bill representatives, [Redacted] and [Redacted].
7. The IPC understanding of RICS guidance is that if undertaken correctly a rent assessment should result in a tied tenant being no worse (or better) off than the free of tie tenant. The valuation process should quantify the disadvantages of the tie and weigh them against the special commercial or financial advantages (SCORFA's) offered by





MRICS

INDEPENDENT PUB CONFEDERATION
Campaign Manager

ROYAL INSTITUTION OF CHARTERED SURVEYORS (RICS)

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 7. The IPC understanding of RICS guidance is that if undertaken correctly a rent assessment should result in a tied tenant being no worse (or better) off than the free of tie tenant. The valuation process should quantify the disadvantages of the tie and weigh them against the special commercial or financial advantages (SCORFA's) offered by companies operating the tied model. One of the SCORFA's is a lower rent, to counter inflated tied product prices, and it is the establishment of this rent assessment that needs to be the priority of RICS guidance, incapable of misinterpretation. The rationale is that rent is reduced as tied prices increase and vice versa. The quantified cumulative effect of SCORFA's (including a lower rent) should be capable of balancing the quantified effect of higher tied product prices. The revised guidance, sadly, is denying this outcome due to confusion over interpretation allowing misuse.
 8. It is of little comfort that pub companies must adhere to RICS guidance if that guidance is so easily abused. It is imperative that areas of manipulation of RICS guidance are closed.

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99 Emails to and from Edward Davey, January 2012

From: Davey MPST
Sent: 06 January 2012 10:57
To: Davey MPST Correspondence
Subject: FW: Government Response to Select Committee Hearings re pubcos

D13/ 660623

277503

Importance: High
 For CCP

██████████ | Assistant Private Secretary to Edward Davey MP, Minister for Employment Relations, Consumer and Postal Affairs | BIS | T: +4420 7215 ██████████ | www.bis.gov.uk

From: DAVEY, Edward [mailto:edward.davey.mp@parliament.uk]
Sent: 06 January 2012 10:31
To: Davey MPST; Davey Ed (Mr E) MPST MIN
Subject: FW: Government Response to Select Committee Hearings re pubcos
Importance: High

Edward Davey MP
 Liberal Democrats Member of Parliament for Kingston & Surbiton
 Parliamentary Under-Secretary for Employment Relations, Consumer and Postal Affairs
www.edwarddavey.co.uk
 Tel: 020 8288 0161

From: Justice For Licensees [mailto:info@justiceforlicensees.org.uk]
Sent: 05 January 2012 17:38
To: David Cameron; CAMERON, David; David Cameron; CLEGG, Nick; CLEGG, Nick; CABLE, Vincent; DAVEY, Edward
Cc: Adam Pescod (PMA); Adam Warner (ITV); Alan Rook (ITV); Alex Hill (ITV); Business Russia Today; Central News ITV; Chris Lyddon; Daily Express; Daily Mail; Daily Mirror; Daily Star; Damien Fletcher (Daily Mirror); Ed Doolan (BBC); Editor USA today; Fiona Dye (BBC); J Singh-Sohal (ITV); Ken Dilanian; Lesley Foottit; London Evening Standard; Loose Women; Mail on sunday; Mickey Clarke (BBC Radio 5); Nick Sommerlad (Mirror); Nigel Wakefield; Pan Yuk (FT); Press Association; Producers Russia Today; radio 5 live; Riceman, Rosalind; Ritchie Beacham-Paterson (Devils's Advocate Prod; Roy Dennis (Work); Sam Gregory (The Sun); Simon English (Lon Ev Stan); Sinead Heekin; Sky News; Spotlight BBC; Steve Hawkes (The Sun); Sun City Desk; Sunday Telegraph; Telegraph; The Guardian; The Independent; The Observer; The Sun; This Morning; Working Lunch (BBC)
Subject: Government Response to Select Committee Hearings re pubcos
Importance: High

For the attention of the Right Honourable Messrs Cameron, Clegg, Cable and Davey

Open letter

Dear Sirs

With reference to the government response to Select Committees Reports into the practices of pub companies.

I am writing to you on behalf of many, if not all, of the circa four hundred and thirty thousand members and supporters of the Save the Great British Pub campaign. I would ask you to heed

that these people are your people, your voters, who would welcome some much needed honesty and transparency, we sincerely hope that this is not too much to ask and that each and everyone of you will answer the points raised?!?

My apologies for the openness of this letter, however as you have failed to respond to previous communications (perhaps we are not considered important enough to be shown the courtesy of a reply?) and the fact that the members have a right to be informed I have no other choice. You will note that members of the media have been copied in, pubs are far too important to be allowed to be decimated in the way that they are from within, we are hopeful that the media will want to help.

In determining the most appropriate course of action, Government has borne in mind the following principles:

- That the OFT has found no evidence of competition problems that are having a significant adverse impact on consumers and therefore the Government is not minded to intervene in setting the terms of commercial, contractual relationships.
- That legally binding self-regulation can be introduced far more quickly than any statutory solution and can, if devised correctly, be equally effective.

We these two principles in mind, we would be grateful for an explanation, in plain, clear concise English language that the majority of people would be able to understand, of the thinking behind these two principles when the following points are taken into consideration. We are hopeful that you will show the courtesy of answering the questions raised.

- Using the IPPR stats, as used by BIS in reaching their decision, the tenanted leased model equates to 28,800 pubs of 55,530 pubs in Britain, which in percentages equates to 51.863857% of the market place. Is it not clear that this is indeed a dominance of the market place by the tenanted/leased model? Is it not true that 40% of a market place equates to a dominance?
- Is it true that Competition law prohibits restrictive practices or agreements that restrict free trading and competition between business? Is it also not true that the tied model is one of these type of agreements, but is afforded protection under European law? We have been led to believe that the protection is afforded for the tie by counter veiling benefits, such as cheaper rent, have this government investigated whether the counter veiling benefits equate to the cost of the tie and if not why not?
- Is it true that objectives of Competition Law should take into account protecting the interests of consumers and ensuring that entrepreneurs have the opportunity to compete in the market economy?
- Taking it that all of the above is indeed true then why have the OFT and this government failed to understand that over renting and over pricing of products by a model with a dominant market share detrimentally impacts on the consumers? Is it not clear that it is the consumers who end up paying for these practices of the pub companies?
- How can the entrepreneurs who run pubs under the leased/tenanted model possibly compete in their own market place when restricted by over renting and over pricing of products?
- A member/supporter of our campaign requested a FOI into the OFT investigation, this was refused due to commercial sensitivity. How can there possibly be transparency when departments of this government refuse to be transparent? It is clear from the MP's expenses fiasco that there are some of power who would be willing to bend the rules for their own benefit, if government departments refuse to be transparent then how are the people of this country supposed to rest assured that all is above board and as it should be?

- Would a full market study not give the transparency that is required to be able to reach an informed and correct decision? Do the pubs of this land, the people that run them and the people that use them not deserve at least that much transparency? If not why not?
- It is clear to many that the restrictive and anti-competitive practices of the tied model do indeed have a significant adverse impact on themselves, they are clear in their thinking that the prices charged by the pubcos, in conjunction with rents that are at a level or in some cases above the open market level are costing them dearly. Why should they be deprived of drinking in a pub that they choose because they cannot afford the prices being charged, due to the cost of the tie? Why should the consumers be deprived of products they may wish to purchase in a pub that they wish to use because the licensees cannot stock the products due to the restrictions of the tie? Why does it appear so difficult for this government and its departments to understand the significant adverse impact on the consumer when it is so clear to a normal person on the street?
- Why do you think that, for example, JDW, who has a much smaller buying power than the large pub companies, can pass on the benefits of their buying power to the consumer, which enhances competition and the large pub companies with their huge buying power cannot? Why should a model which has a dominant share of the market place be allowed to continue to restrict competition in this way?

We welcome the fact that this government are mindful that there is an urgent need for a quick resolution and we applaud the fact that it should be devised correctly, that said we are bitterly disappointed that it does not appear that this resolution has been devised correctly at all.

- We would be grateful for full, complete and clear transparency on legal opinions used to reach the decisions made.
- We request details of all meetings, telephone calls and copies of ALL correspondence in relation to the government's decision and the findings of the four Select committees.
- Is this government aware that some of the large pubcos are sending out COP's to tenants that were written in 2010? How are these new and improved COP's?
- The pubcos have been found to be wanting by four Select Committees, they have had since 2004 to reform and have failed ignominiously, why do the government think that this is going to change? What proof do this government have that significant reform will indeed take place?
- This government have allowed the pubcos and their entourage to write their own regulations, the very people who have been found to be wanting, would this government allow prisoners to write the penal reform code in its entirety, would they allow the criminal underworld to write the laws of this land, what is the difference? Have this government learnt any lessons at all that self regulation can be open to abuse and can be abused?

Prior to the general election both the Lib Dems and the Conservatives agreed to follow the lead of the then government if the Select Committee found that it was a requirement, we would be grateful for a full, clear and concise explanation in English that the normal person on the street would be able to understand as to why you felt that you could say this prior to the election but have now exhibited a massive u-turn? What is the point of having the expense of Select Committees if the government fail to listen to their recommendations?

We have noted that BIS have used closure stats to help them reach their decision and yet they appear to have failed to take into account 'churn', this is where the pub business closes in exactly the same way as those on the closure stats, but the pub does not reach the closure stats because the companies place an interim management company or new lessee/tenant to run the

pub, often at a reduced rent with greater discounts, quite why they can't do this for the incumbent tenants is beyond our comprehension. How does this government justify using partial or incomplete information to reach its conclusions?

We have noted that Ed Davey has admitted in public that the tied model does not appear to be working, we would be grateful for an explanation of why this government appears to feel that it is justified in protecting a model that does not appear to work at the expense and to the detriment of the pubs of this land, the people that run them and the people that use them. How can this government possibly justify the apparent abuse and exploitation of their voters?

We are hopeful that you will show our members the courtesy of answering their concerns with all due haste.

Yours sincerely

Inez Ward

<http://www.official-documents.gov.uk/document/cm82/8222/8222.pdf>

<http://www.morningadvertiser.co.uk/General-News/BISC-Pubco-tied-model-not-working>

<http://www.morningadvertiser.co.uk/General-News/Lib-Dems-will-reform-beer-tie>

<http://www.morningadvertiser.co.uk/General-News/Conservatives-back-action-on-beer-tie>

Inez Ward

Justice For Licensees

Tel: 

UK Parliament Disclaimer:

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100 Email to Vince Cable, January 2013

[REDACTED] (CCP)

From: BIS Central Drafting Unit
Sent: 14 January 2013 14:22
To: [REDACTED] (MPST MIN)
Subject: FW: Pub industry adjudicator

321628

Please log as treat official standard line PUBCO – 30B46

From: Enquiry Enquiry (Other Government Departments)
Sent: 11 January 2013 10:19
To: BIS Central Drafting Unit
Subject: FW: Pub industry adjudicator

Dear Colleague,

Is this something you can help with?

If you are able to answer this enquiry please reply to the enquirer directly, if this enquiry is not for you to answer please reply to the enquiry email address letting us know.

Many thanks,

[REDACTED]

BIS Communications Directorate Enquiry Unit | Department for Business, Innovation & Skills | enquiries@bis.gsi.gov.uk | T:+44 (0)20 7215 5000 | F:+44(0)20 7215 0105 | www.bis.gov.uk | Blog: blogs.bis.gov.uk | Twitter: @bisgovuk

The Department for Business, Innovation & Skills (BIS) is making a difference by supporting sustained growth and higher skills across the economy.
BIS: **working together for growth**

From: [REDACTED]
Sent: 10 January 2013 19:55
To: Enquiry Enquiry (Other Government Departments)
Subject: Fw: Pub industry adjudicator

<http://www.bbc.co.uk/news/business-20950629>
<https://www.gov.uk/government/news/press-release-new-proposals-to-stand-up-for-british-pubs-and-prevent-unfair-practices>

To The Rt Hon Dr Vince Cable MP

From [REDACTED]
[REDACTED]

01/07/2013

[REDACTED]
[REDACTED]

Dear sir.

We are a lease hold pub and we are tied to punch taverns PLC.

We have had our pub for 11 years now.

IF you need evidence of how these pubco,s are destroying my industry then please come and look at our books.

we have nothing to hide. we exist by putting our own money in to pay bills.

We always were led to believe that anti competitive activities and monopolies were illegal in this country.

Yet we see pubco's monopolizing the pub trade for so long now with successive governments promising to act but nothing is ever done.

How can they take so much and still owe billions?

Now we have **Toby Perkins MP, Labour's Shadow Pubs Minister**,bleating about what he will do, **How many years did Labour have the opportunity to do something? and his predecessor did less than nothing.**

Our offer is open to you and thank you IF you urgent intentions are genuine.

Regards [REDACTED]

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01/07/2013

101 Email to BIS, January 2013

321631

[REDACTED] (CCP)

From: BIS Central Drafting Unit
Sent: 14 January 2013 15:06
To: [REDACTED] (MPST MIN)

Subject: FW: Pubs closure

Please log as a treat official Pubco Standard line – 30B46

Thank you

From: Enquiry Enquiry (Other Government Departments)

Sent: 14 January 2013 09:40

To: BIS Central Drafting Unit

Subject: FW: Pubs closure

Dear Colleague,

Is this something you can help with?

If you are able to answer this enquiry please reply to the enquirer directly, if this enquiry is not for you to answer please reply to the enquiry email address letting us know.

Many thanks,

[REDACTED]
 BIS Communications Directorate Enquiry Unit | Department for Business, Innovation & Skills | enquiries@bis.gsi.gov.uk | T:+44 (0)20 7215 5000 | F:+44(0)20 7215 0105 | www.bis.gov.uk | Blog: blogs.bis.gov.uk | Twitter: @bigovuk

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From: [REDACTED]
Sent: 11 January 2013 17:09
To: Enquiry Enquiry (Other Government Departments)
Subject: Pubs closure

Hi

I read the article in the Guardian and the Sun regarding the tactics of Pub Landlords.

I am one of them. I had to let go my tenancy as i was getting more and more in debts.

I was hoping that things were going to get better but it did not happen.

After over 6 years I gave back my Pub to Spirit Lease. I am now facing a future with no job and a lots of debts.

Spirit Lease give the Pubs to an other company at a smaller rent and better deal on the drinks.

It really make me mads

I would like you to pass my thanks to the Business Secretary who is trying to impose a code of conduct. I know its too late for me

01/07/2013

but i am sure it will help others in the years to come.

Thanks very much.

This email was received from the INTERNET.

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01/07/2013

102 Email to Vince Cable, January 2013

[REDACTED] (CCP)

321633

From: BIS Central Drafting Unit
Sent: 14 January 2013 15:10
To: [REDACTED] (MPST MIN)
Subject: RE: information on pubco's

Please log as treat official standard line Pubco 30B46

Thanks

-----Original Message-----

From: Enquiry Enquiry (Other Government Departments)
Sent: 14 January 2013 09:54
To: BIS Central Drafting Unit
Subject: FW: information on pubco's

Dear Colleague,

Is this something you can help with?

If you are able to answer this enquiry please reply to the enquirer directly, if this enquiry is not for you to answer please reply to the enquiry email address letting us know.

Many thanks,

[REDACTED]

BIS Communications Directorate Enquiry Unit | Department for Business, Innovation & Skills | enquiries@bis.gsi.gov.uk | T:+44 (0)20 7215 5000 | F:+44(0)20 7215 0105 | www.bis.gov.uk | Blog: blogs.bis.gov.uk | Twitter: @bisgovuk

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BIS: working together for growth

-----Original Message-----

From: e-mail [REDACTED]
Sent: 11 January 2013 21:47
To: Enquiry Enquiry (Other Government Departments)
Subject: information on pubco's

hello mr cable, my name is [REDACTED] and i am currently a tenant with my fiance in a greene king pub in derbyshire. this is our first pub and probably our last if something isnt done quickly i am writing to you to inform you of what the brewery is doing to our business.

we are currently having to sell back our fixture and fittings due to a rise in our beer last april/may (just before the budget) this has put a massive strain on us as our margins are getting smaller and smaller. the brewery says its because our wages were to high but we know its because of the rise in our beer prices.

the other pubs in the village are all free houses and we cannot compete with them. this does'nt make any difference to the brewery as [REDACTED] do nothing about our prices.

we have been here now for 2 and a half years and this is supposed to be where we make money which is not the case we have to pay our vat in installments as we cannot afford to pay it all in one go. as i said we have now got to sell back our f&f as we were in debt. we pay for maintenance which takes months to be authorised the outside of the building is in need of money being spent which we know will never happen yet they spend money on pubs which are not doing well. if you could find a little time to send me an email stating what is going to be done i would appreciate it. you can contact me by email or by phone [REDACTED] thank you [REDACTED]

This email was received from the INTERNET.

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103 Letter to Vince Cable, January 2013

P13/757010

CCP

323 472

Mr Vince Cable MP
Business Secretary
The Department for Business, Innovation & Skills
House of Commons
London
SWIA 0AA



Received in
Central Drafting Unit

22 JAN 2013

16th January 2013

Dear Mr Cable,

I write with regard to the BISC inquiry into the pub industry and the voluntary code of good practice adopted by the industry. I submit my comments below for consideration under the six week consultation for a statutory code.

I am currently attempting to renegotiate my tenancy which expires at end of March 2013. After many fruitless discussions with the Landlords, Hall & Woodhouse, over the past year I have been forced to engage Professional advice at great expense. Hall & Woodhouse are proposing to increase the rent in line with RPI at renewal in spite of the fact that I, and the area in which I trade, have suffered substantial declines in footfall and business over the past few years.

I have engaged an RICS professional to produce a rental report. The report sets a rental level 50% below that proposed by Hall & Woodhouse. My RICS professional is a recognised expert witness to the Courts and the pub industry. He has advised and made submissions to BISC parliamentary enquiry as an expert witness. The report is in the process of being submitted to Hall & Woodhouse this week. I find the lack of professionalism by Hall & Woodhouse in arriving at a properly calculated rent alarming. They do not actually produce any evidence in support of their demand despite it being requested. I do not believe that Hall & Woodhouse will accept the recommendations of the report. They are actively advertising for a new tenant at their proposed rent level ie. 100% (£57K). They are also knowingly understating the level of investment required for an incoming tenant to take on the business by £15/20k. Hall & Woodhouse do not need to accept the recommendations when my position will be undermined by an ignorant incoming tenant who blindly takes on the tenancy without advice.

The Morning Advertiser has today reported that Hall & Woodhouse are now recruiting a third of new tenants from within their managed houses. This raises a number of issues. Where are these low paid ex employees getting their capital from? Are Hall & Woodhouse funding them. If so, why would they do this and what are the terms and conditions (onerous)? What advice are these new tenants getting? Are these ex employees thinking that because the managed house they were in was doing well they will be equally successful as a tenant. A tenant house and a managed house are not the same, one is given substantially more resources and better terms than the other. Have Hall & Woodhouse found a new source of ignorant incoming tenants?

I understand that proposals are currently being made to give legal force to the voluntary code of good practice. In effect to remove the voluntary code and to legally enforce pub companies to adopt good practice. It has been suggested that the legal requirement should only be placed upon large (500+ pubs) pub companies and not small (less than 500). I do not believe this is workable and nor is it fair to tenants of small pub companies to be excluded from this protection. My experience of Hall & Woodhouse suggests that they are not essentially or materially different from large pub

companies. They behave in much the same way. I can see the large companies breaking down into smaller companies purely to escape the yoke of legislation whilst retaining controlling influence which I believe is something that happened under the Beer Orders Act.

In drafting Legislation to address the problems of the Pub industry consideration should be given to making it a legal requirement for rents to be set by RICS professionals or by requiring either or both the pub companies and tenants to obtain independent rental valuations. As long as ignorant potential tenants are allowed to enter the industry without professional guidance then the existing tenants are undermined and exploited by the pub company which relies on that continuing ignorance thriving.

There should also be guidance as to the minimum level of income a tenant should receive that realistically reflects the hours committed to the business together with all the legal responsibilities/risks that are borne by the tenant. I do not believe this issue has been addressed. The risk/responsibilities vs reward ratio is seriously out of kilter. If any tenant were actually to carry out all of their legal and contractual obligations then they would be left with minimal or no income. A RICS expert would address all of this which is why my report is showing such a wide variation between my rent and the pub company's. By allowing Pub companies to continue as they do Parliament is effectively endorsing the breaches of Statutory Legislation ie. Health & Safety; Pub Licensing; Food Standards etc. as long as tenants are left in a position where they have to choose between maintaining an acceptable income and cutting costs.

I hope that you will give my suggestions serious consideration and that you will find them of use to you in addressing the problems you are currently dealing with. I speak as a landlord of four years experience with an additional prior three years as a financial/business advisor to another pub landlord. Prior to this I was a financial controller reporting to board level at a FTSE350 company of ten years experience.

Yours Sincerely

A redacted signature consisting of several thick black horizontal bars obscuring the name and any handwritten notes.

CC: Mr Andrew Griffiths MP – Chairman All Parliamentary Beer Group
Ms Jo Swinson MP – Consumer Affairs Minister
Mr Adrian Bailey MP – Chairman – Business, Innovation, Skills Select Committee
Mr Greg Mulholland MP – Chairman – Save The Pub Group

104 Letter to Brandon Lewis, March 2013

Q 755716
333187

To/BL/PUB Running Costs.
Carl Langford.
BSCR

RECEIVED
25 MAR 2013
DOLG

14th March, 2013.

Brandon Lewis MP
House of Commons
London
SW1A 0AA

Dear Mr. Lewis,

I am writing in desperation in the hope that you may bring some logic into the totally outrageous conditions that some of us (pub co tenants) are having to deal with.

Personally, my husband and I have been at _____ for 11 years, 9 of which we have been with Punch Taverns.

Not only do we have to pay over half as much again for our barrels than we would if we could be free of tie but now we are being charged £30.00 admin charges for the privilege of paying for there overpriced goods. We have paid by cheque for our goods for 9 years – in advance I might add – and now because they would like everything paid for by card on line they have introduced this ridiculous admin charge.

We are struggling, and the town of Leominster is like every other market town in the country losing shops and businesses at a very fast rate.

Please come to our aid and stop the pub co's ruining the pub trade and please do something about them running roughshod over their tenants.

You might wonder why we do not leave – they have bled us dry and left no alternative but to keep plodding on or go bust which they wouldn't care about as they would just put someone else in at a much lower rent, give the place a make over and start all over again – this should not be allowed to happen – I would urge you to take matters in hand before the small British pub is lost to these giants forever.

Yours sincerely,



105 Letter to David Cameron, January 2013

D13

Prime Minister's Office

10 JAN 2013

Phone is checked

DATE RECEIVED

24 JAN 2013

11th January 2013

Dear Mr Cameron

RE: PUBCO'S Excessive Rent & Expensive Beer Tie Punch Taverns

I am writing to you to see if you could help landlords who are in the same boat as us with regards to putting a stop to Pubco's 'ripping-off' hardworking people.

It has always been a dream of ours to run our own pub as we both met working in one some 24 years ago. However, our dream is turning into one financial stressful nightmare.

Our business plan was based on figures given to us based on FMT (Fair Maintainable Trade) someone who estimates the potential trade for our pub. Our accountant used this estimated information to draw up a profit & loss account as well as takings estimated for each month making it look like it was worth while to go ahead as the rent, bills etc was included in it. Unfortunately this was not meant to be as takings are some £150,000-£200,000 down for the last 12 months, lower than the estimated figures given.

The rent charged by Punch compared to our actual figures does not reflect this and we are certain that trade will remain the same due to the current economic climate and taking other factors into account, although Punch have put us on a temporary rent reduction it is still too costly.

As for beer tie we know that we as a business can save £300 on 5 different barrels of ale/lager etc. So if we needed 10 barrels we could save £600.00 and so forth for the exact same product. We did not know this at the time.

However, its not just pubco's that are to blame. Costly business rates, heating/electric and banks too, we can't even get a business overdraft from our bank.

As our business stands today we are in financial difficulty as we currently owe several weeks worth of rent, £1824.00 in business rates and £3000.00 in VAT. Last January we had to get a loan to pay VAT and we've already used our own personal credit cards to pay Punch in rent, some £3000.00 in a matter of a few weeks.

We earn £1.27 an hour.

We are now seriously considering that our business may go into liquidation as there is simply no way forward, even though we have both worked so hard and achieved so

much since taking over it in May 2011 in getting this pub back on track and winning awards and fantastic compliments from our customers even more so from when the previous landlord let it run down.

It seems an awful shame as we both love it here. Its not just a pub, it's a community.

According to CAMRA 16000 pubs each week close their doors. We think our door will close too.

Hope you can help.

Regards

A redacted signature area consisting of several horizontal black bars of varying lengths, obscuring the name and any handwritten notes.

Received in
Central Drafting Unit

25 JAN 2013

106 Letter to Vince Cable, January 2013

Pub Co

Tel

Received in
Central Drafting Unit
- 2 FEB 2013

DATE RECEIVED
31 JAN 2013

LYNX:
324575

MATRIX:
D13/757036

25th January 2013

Dear Mr Cable,

I am the landlord of the public house in and have been for the past seven years. I have a Punch Taverns lease and I have had to work long hours while waging a constant battle to keep my business solvent during the whole duration of my ownership.

I bought the lease of my beautiful old pub in 2005 for £230,000. The outgoing landlord supplied me with inaccuracies about the actual profitability of the business by cleverly massaging the accounts. The B D M from Punch openly lied, telling me I would receive, amongst other good benefits, great discounts on my beer purchases. After only two weeks in my new business the Punch beer bill arrived and, to my horror, I discovered I was paying nearly double the price that I could purchase the same beer for at the local cash and carry! I rang the B D M who casually told me that I was tied to Punch and so that was an end to the matter.

My annual rent to Punch was £68,000 and I soon realised, with the exorbitant beer prices, I was going to struggle to pay my bills and keep my business afloat. The reality of this situation took a huge toll on my peace of mind and general health. I have always been a hard working man determined to support myself and my family. I am fifty eight years of age and have never been out of work, neither have I ever claimed a penny from the state. I have a family home that is also a guest house. If I cannot pay my rent to Punch they have the power to not only take my pub away but to also demand that I sell my family home to continuing paying the rent. As you can imagine, the cold reality of this situation is extremely stressful.

I managed to keep my business afloat by much hard work and a great staff of twenty for a couple of years My rent at this time had risen to £70,000 and my rent review was due so I paid a professional rent assessor to renegotiate a fair rent for me and Punch reluctantly lowered it to £50,000. This increases by 2% above inflation every year.

By this time, the recession was starting and I had to work even longer hours and cut my staffing levels to keep my head above water. My constant battle to keep my business solvent has become harder as each year has passed by and the recession has become deeper. I read the trade papers and hope desperately that you can help me and many other pubco pubs by ending the vice like tie of these companies.

Many thousands of pubs have closed over the last few years leaving their landlords bankrupt and destitute. I myself have had to borrow money to pay my extortionate bills to keep my head above water. The beer tie alone costs me £30,000 a year for the extra money that Punch charge me for my beer. I have tried in vain to sell my pub,

for a much cheaper price than I paid for it, but who in their right mind wants to buy a Punch Taverns Public house?

The poor British pub is struggling to survive with the beer duty escalator, breweries increasing their prices every year, the recession biting deep, supermarkets selling beer for less than half the price than I can buy it, the list is endless. Yet the worst, most greedy and heartless culprit is the Punch Taverns and the other pubcos. Their savage tie on the beer and crippling rents that they refuse to lower, even when they know that public houses' takings are diminishing, is brutal and unjust.

I hope and pray that you will act to release me, and others like me, from the strangle hold that is Punch taverns. I am prepared to carry on working my fingers to the bone to save my business, please throw me a lifeline and make the tie from the pubcos illegal. I, and many thousands of landlords like me, wait anxiously, nay desperately, and pray that you will make a fair and even playing field and give us a chance to save our businesses. I implore you one last time to lift the tie on our beer purchases and ensure that this is with an open market rent review.

My future and that of my family is in your hands, please help us.

Yours sincerely,



107 Emails to Vince Cable and George Osborne, April 2013

From: BIS Central Drafting Unit

Sent: 11 April 2013 10:11

To: BIS Central Drafting Unit

Subject: FW: Pub Industry Statutory Code of Practice

Please log as TO Standard Line - 30B46 Pub companies - Swinson - and assign to CDU1.
Adam

332850

From: BIS Central Drafting Unit

Sent: 09 April 2013 12:39

To: BIS Central Drafting Unit

Subject: FW: Pub Industry Statutory Code of Practice

PubCo issues. CCP?

From: [REDACTED] (MPST MIN) On Behalf Of Cable MPST Correspondence

Sent: 09 April 2013 11:57

To: BIS Central Drafting Unit

Subject: FW: Pub Industry Statutory Code of Practice

From: CABLE, Vincent [mailto:vincent.cable.mp@parliament.uk]

Sent: 09 April 2013 09:28

To: Cable MPST Correspondence

Subject: FW: Pub Industry Statutory Code of Practice

From: [REDACTED]

Sent: 08 April 2013 23:47

To: CABLE, Vincent

Subject: Fw: Pub Industry Statutory Code of Practice

Dear Mr Cable

I'm very much concerned about the article that appeared in yesterdays Mail on Sunday and as a result, I have sent the email below to George Osborne.

The pub sector is still in a mess, even with the threat of intervention, with tied publicans up and down the country hanging on for dear life in the hope that this Government will help ease their pain and stop pubco abuse. Thousands upon thousands of lives have been destroyed by the greedy pubcos and although we can't change that, a statutory code that contains a free of tie option can effect change that will benefit publicans, consumers and brewers alike. The removal of an abusive cartel from the sector will undoubtedly allow brewers, publicans and consumers to get back to doing what they do best - brewing, selling and drinking beer rather than paying off the ill-advised borrowings of badly run property companies.

Best Regards

[REDACTED]
[REDACTED]

Mobile: [REDACTED]

----- Forwarded Message -----

From: [REDACTED]
To: "contact@georgeosborne.co.uk" <contact@georgeosborne.co.uk>;
"george.osborne.mp@parliament.uk" <george.osborne.mp@parliament.uk>
Cc: "public.enquiries@hmtreasury.gsi.gov.uk" <public.enquiries@hmtreasury.gsi.gov.uk>
Sent: Monday, 8 April 2013, 23:09
Subject: Pub Industry Statutory Code of Practice

Dear Mr Osborne

I've been in the licensed trade for almost 30 years. I have successfully operated numerous restaurant, bar and pub groups. I'm a founder member of the Fair Pint Campaign and a current steering group member of the Independent Pub Confederation (IPC).

Along with many others, I was shocked to read in the Mail on Sunday that you may be looking to block plans to introduce a pub industry statutory code of practice.

In recent years pub businesses have been failing in unprecedented numbers. Much of the damage being caused to publicans, and the cause of so many of these pub failures, is the abuse of the beer tie and rental valuation systems by companies such as Enterprise Inns, Punch Taverns and brewers that copy them such as Greene King, Marstons and Shepherd Neame. Organisations like the British Beer & Pub Association (BBPA) may wish to promote 'other issues' such as duty and supermarket pricing as the reasons for pub failures but this simply isn't true. Higher taxes may not help but they aren't closing pubs.

The BBPA does not represent publicans. It is paid for by property companies and brewers. The so called Beer Group (APPBG), Chaired by Andrew Griffiths and managed by Robert Humphries, is paid for by those same parties and does not represent publicans. For far too long both of these organisations have pretended to represent the interests of real publicans whilst in fact furthering the interests of a small number of larger benefactors such as Enterprise Inns and Marstons. In truth, the BBPA and the beer group are far too conflicted to present a true and complete picture of the problems faced by pubs and it does not help with the real issues, nor does it confer credit on Government, when the treasury seems so ready to be part of the smoke screen being thrown up by the BBPA, the pubcos and the beer group.

The statutory code was set to level the playing field between tied and non-tied tenants and breathe life back into a sector that has been virtually destroyed by the greed of a few. Vince Cable's much needed solution, originally put forward by Peter Luff, was all about preserving jobs, livelihoods and community assets. It was about looking for a fair deal for small businesses in a sector that has become dominated by a small number of property companies and large regional brewers. Whilst we are all looking for a statutory code to ease the pressure for tied publicans, we are still losing hundreds of millions of pounds each year to pub companies in order to support the unsustainable debts they took on in the first place. Much of this money, so needed for investment in the sector, is simply paid away offshore to bondholders. This simply can't be right.

The sector is at a crossroads and a statutory code, with the correct content, will put the industry back on the road to recovery. It will create necessary change and promote a way forward that offers greater protection for existing publicans and newcomers to the industry such that they do not suffer the extraordinary level of exploitation that has been seen in so many cases up and down the country. We have had four select committee inquiries all

screaming for change yet the abuse levelled at tied publicans still goes on today. It seems that Vince Cable, Jo Swinson and other like minded MP's who care about pubs and publicans are keen to see change that will loosen the grip of the property companies that care very little indeed about the future of the cultural icon that is the Great British Pub.

A statutory code of practice that enshrines in law the principle that the tied tenant should be no worse off than if they were free of tie is the only supportable position. I hope you will agree.

Yours Sincerely

[REDACTED]

[REDACTED]

[REDACTED]

JK Parliament Disclaimer:

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This email was received from the INTERNET.

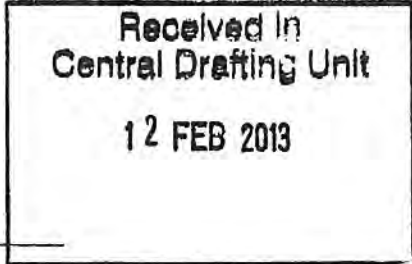
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108 Letter to David Cameron, February 2013

TO SL 305 PUBCOMPANIES + DEBT LINES FROM
COMPANIES CAG&IT

CCP
PubCo
+
Debt?

LYNX: 326756
MATRIX: D13/757055



Industry-gen
CAG/BTS
(6)

Any help or advice on the following
request would be appreciated as this
is a last ditch attempt. I've never
not asked anyone for help before
but this is my last ditched
attempt.

Financial Services Office

- 5 FEB 2013

Opened and Checked

The prime minister
Mr David Cameron

To Whom it may concern

I am writing this letter in a last plea for help. The facts and keeping this as short and as simple as possible we took over a tenancy of a pub in August 2008. We were given false turnover had dog faeces all in the living accommodation complained for two years by email of damp coming into the living accommodation have pictures and videos as evidence the brewery made us suffer to the point my children couldn't stay due to poor conditions. As a last resort we stopped paying rent and the brewery evicted us, not having no money we tried to defend ourselves at court but lost. My kids are now losing their home of 14 years mortgage and the brewery pushing us to pay over £28000 which we don't owe we have mail and evidence but have been severely

worried at times and stress and immotional feelings are at a top level. I feel let down we have had no one listen or help us I am asking if for once the Government can stop these breweries doing this to hard working people and no one has bothered an eyelid to help us out I feel lost and in despair what can we do is there any help available I have lost all confidence and have resorted to hiding away and not even signing on or claiming anything how can breweries do this I want to fight them and put a stop to it but I cant any help available

Yours hopefully

109 Letter to Vince Cable, October 2010

L4N& 222290 -D13/666587

Our Ref: DCHM/peb/6667
20th October 2010



CHARTERED SURVEYORS
Licensed Leisure and
Business Property Specialists

Rt. Hon. Dr. Vince Cable, M.P.,
Business Secretary
Department of Business, Innovation & Skills
1 Victoria Street
London
SW1H 0ET.

Dear Dr. Cable,

Your Constituents

I confirm that I act for your constituents, _____ in respect of a rent review dispute with their Landlords, Enterprise Inns, regarding the _____ I understand that you are familiar with this iconic pub and thought you might therefore be interested in following the progress of the disputed rent review with one of the Country's high profile Pubco's.

You have a noted and successful profile of standing against the injustices of the current financial system propped up by the major Banking institutions. This is stance that I wholeheartedly support on a personal level and can draw some quite unattractive comparisons with Public House owning property companies such as Enterprise Inns Plc. In my considered view, through the application of the supply-tie, they are at the heart of the slow but certain destruction of the pub industry which is one of the bastions of our established British social traditions/way of life.

It is appreciated that a fellow Liberal Democrat colleague, Greg Mulholland, M.P., is a fervent supporter of the anti-Pubco lobby although, quite rightly, he is unable to take any personal interest in matters not affecting his own constituents.

The _____ however is a regrettable case of bullying Pubco tactics, not least in respect of the so-called 'Spy-in-the-Cellar' which is the flow monitoring system installed by Brulines over which my Clients and your constituents have had considerable grief with Enterprise Inns. This has underscored their quite unacceptable commercial behaviour. In addition the _____ now face a suggested rent rise of almost 30% set in the face of static or falling sales and significant annual increases in overhead expenditure. In all, a lesson in exceptionally poor estate management by the Landlord of the premises, Enterprise Inns.

Continued overleaf.....



20th October 2010

I am almost unique as a ~~specialist~~ Licensed Property Chartered Surveyor, having had direct hands-on experience in the ownership and operation of a large restaurant and subsequently two public house premises. To that end I attach my standard C.V. which is utilised on professional ~~basis~~ in issues of Litigation and Court appearances for which I am an accredited Expert.

Understanding that you have an incredibly busy Parliamentary schedule, I hope that the contact that I have now established rings a sympathetic cord in my provision of this preliminary background information regarding this rent review case. Regrettably this is typical of a large number of ~~similar~~ cases nationwide across a broad range of Property Companies who own supply-tied pubs.

I look forward to your thoughts in due course.

Yours sincerely,



FRICS, MRPI, MRPAS

e-mail:
mobile:
1

Copy to: Mr. Michael McCarthy.

110 Letter to Vince Cable, November 2010



Justice For Licensees



27th November 2010

By email and first class post

Dawley

Dr Vince Cable

CCP

Ministerial Correspondence Unit

Dept. for Business, Innovations and Skills

1 Victoria Street

London

SW1H 0ET

Dear Dr Cable

We are writing to you on behalf of a large number of our 420,000 members and supporters in the quest to Save the Great British Pub.

Pubs are vital to the history, heritage and culture of Britain. They play a vital role in communities and with social cohesion, which are both important. With reference to binge drinking, pubs are part of the solution as they have to retail alcohol responsibly otherwise they will and do face licence reviews. Pubs also play an advantageous role in the economy with duty, employment, VAT and other taxes, they also become a drain on the economy as and when they fail with loss of all of the above and a further drain when licensees have to claim tax credits and social housing.

For the last three years we have carried out some considerable research through our membership, we have listened to their concerns. There appears to be 3 main areas of contention, they are as follows government legislation and red tape, supermarket pricing of alcohol and pub companies.

E-mail: info@justiceforlicensees.org.uk Mobile: 07816 899742

Considering the pubcos position, the position of many of our members and the serious questions raised that have not been satisfactorily answered, we feel that it is imperative that there is a full market study by a totally independent body, surely would this not help the BISC learn the reality of the situation? Would it not lay all the arguments and counter productive practices to rest once and for all? Would this not help? Surely if the pubcos believe their own PR then this would help them, why would they not want this?

We agree entirely that there must be a harsh light shone into the murky world of corporate behaviour and urge you to shine that light into the pub world. To shine that light there must be total honesty and we are strongly of the opinion that the only way to obtain that honesty will be for a full market study.

We support the Lib Dem manifesto for pubs and would be grateful for a meeting with your good self at your earliest convenience. We will look forward to informing our members on your thoughts and views of all of the above.

Thanking you in anticipation.

Yours truly



Inez Ward

Justice For Licensees

24 Newham Road

Truro

Cornwall

TR1 2DT

E-mail: info@justiceforlicensees.org.uk Mobile: 07816 899742

With reference to pub companies, which appear to be one of the leading factors in the demise of the Great British Pub, we are aware that the BISC continue their investigations however we must fully agree with your stance that a proper debate is impossible with people who start from the infantile position that there isn't a problem. It is even more unacceptable and infantile when some pubcos or their representatives have found to be economical with the truth, if they have been found to be economical with the truth on more than one occasion then how endemic is this practice?

Unfortunately and very sadly this would appear to be the infantile position of some pubcos, they have failed to grasp the reality of the situation, they have built their houses on sand, they lacked foresight and now they lack hindsight! Some pubcos have continued vociferously with the obvious spin that everything is rosy in the garden, that tenants with problems are in the minority and that the Codes of Practice will be the saviour of the trade, we strongly question these claims. From the feedback from our membership everything is far from rosy in the garden, it is highly questionable whether tenants with problems are in the minority or the majority and the Codes of Practice will do little to resolve the imbalance of power between pubcos and tenants. It would appear that there is still very little transparency, honesty or fairness and quite frankly this is just not good enough. In 2004 the pubcos were investigated by the TISC and failed miserably to follow the recommendations set, it would appear that history is repeating itself in 2009 and 2010, is this really good enough? Should the people of this land not expect better? Do the politicians, the pubs and the people not deserve honesty, transparency and fairness?

There have been serious questions raised concerning Brufines and the pubcos, an SGS report found the equipment to be inaccurate and yet tenants are fined on the findings of this equipment. If the equipment is not accurate then would this not mean that the equipment is not fit for purpose? As tenants are fined on the findings of the equipment then would this not mean that the equipment is in trade use? If it is in trade use then why is it not regulated by weights and measures? If the equipment was to be regulated then would this not put a stop to any unsavoury practices?

There have been deaths of tenants and hundreds of others put at risk when some pubcos have failed to adhere to Health and Safety issues. We are aware that pubcos charge outgoing tenants dilapidations which should cover all H & S issues, if previous tenants have been charged dilapidations then why haven't the pubcos corrected the faults? What happened to the money secured from the outgoing tenants? How widespread is this business practice?

There have been serious allegations of abuse, exploitation and intimidation is this really the way that business should be seen in Britain? How many of the tenants feel abused, exploited and intimidated? Why do tenants feel like this? How many tenants have lost everything and become a drain on Britain's economy? How many are still in that position or are just about to be put into that position due to the irresponsibility, incompetence and negligence of their pubco?

111 Letter to Vince Cable, February 2011

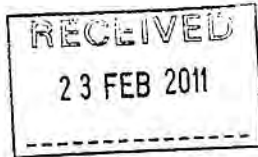
L42X 239295
013/666665

Business Rates
David McDonald
LGF-BRU

DELO

arp

theangliarevenuespartnership



Strategic Manager ARP
Switchboard Telephone

Revenues Fax No.
Minicom

The Rt Hon Vince Cable MP
House of Commons
London
SW1A 0AA

Please ask for:

Direct Line:

E mail:

Our reference

21 February 2011

Dear Mr Cable,

Re: Non-Domestic Rates (Business Rates) – Public House Tenants

I work as the Strategic Manager for a partnership providing Revenues and Benefits across three Counties in East Anglia. Members of our Joint Committee represent Breckland, East Cambridgeshire and Forest Heath District councils and have requested I write to you about an issue that seems to be spreading across our districts.

It appears that major brewers no longer 'vet' potential landlords, but rather let public houses to people who have never run a business before, without giving them the knowledge and tools to succeed. Consequently, new tenants are not prepared for the extent of their financial liability and are unable to consider the true financial case for their business, taking account of information available regarding their commitments.

As a result more and more of these tenants are becoming bankrupt owing money to the utility companies and to the local authority in respect of Non Domestic Rates. It should be noted that had these properties remained empty, the brewery, as owners of the property, would have been responsible for payment of the Business Rates.

The Authorities I represent have written to the major breweries in our area offering to provide details of the rateable values and rates payable for inclusion in literature and internet adverts, and for use when putative tenants are preparing their business cases. We are also offering to provide details of any relief there may be available on the property, before a tenant takes on such a property. We have received no reply.

There may be other industries pursuing similar ways of Business Rates avoidance, at the expense of individuals.





www.angliarevenues.gov.uk
email: info@angliarevenues.gov.uk

Breckland: 01362 656672
Forest Heath: 0800 163030
Fax: 01842 756513

Breckland House
St Nicholas Street
Thetford, Norfolk. IP24 1BT

At a time where there are difficulties with regard to job availability, a review that may prevent this shoddy practise may be beneficial to those who, through trying to work, are being lead into bankruptcy would seem a sensible approach by Central Government.

Yours Sincerely,



Strategic Manager,
Anglia Revenues Partnership

112 Email to Vince Cable, September 2011

Sent: Friday, 30 September 2011, 12:53
 Subject: Fw: brulines

813667041

263338

Dear Mr Cable

My name is [redacted], i am an Enterprise Inns tenant at [redacted].
 The following has been sent to the LGO follow a complaint made by myself to them about Trading standards taking no action whatsoever regarding a complaint raised about the inaccuracy of Brulines and its use in trade by Enterprise Inns to fine people.
 Also attached is a letter sent from my BDM [redacted] solicitors Stating that she wants to recover this site
 Thus proving that Enterprise want me out of this public house and are using the Brulines system as part of the way to get me out
 Enterprise have also sent Bailiffs in on 5/8/11 and claimed money there and then [with a police presence] i had to find £4000 or they would take all my stock
 This was done even though this is a disputed debt and the bailiffs have no right of entry they also did a walking possession order
 After numerous emails to [redacted] Divisional manager at Enterprise the reply i got was that it was for debt that also included Augusts rent
 Considering i pay weekly and it was the 5 Aug how can it be outstanding debt?
 I put it to you that these companies are operating a conspiracy and fraud on a major scale i am only one person how many more are these companies doing this to?
 I hope you take the time to look at this and take the appropriate action against these companies

The above attachments are taken from the Brulines website
 The hotspots i have broken down into four segments of a yearly period and one yearly printout
 There are an awful lot of out of hours dispensing going on according to Brulines. My CCTV can confirm when the pub is open.

My opening hours are as follows
 Mon - Weds 17.00 - 23.00
 Thurs 17.00 -23.00
 Fri 16.00- 01.00
 Sat 12.00 -01.00
 Sun 12.00-23.00

The four segmented printouts show a total of 907 pints of out of hours dispense or £2630.30 in value at an average of £2.90 per pint
 The yearly printout shows 815 pints of out of hours dispense or £2363.50 as above
 As you can see the two ways of printing this information DOES not even tally up How can this be?
 Also is a line cleaning sheet that shows that on occasions i clean my lines three times a week.
 I clean my lines Every Tuesday ,by cleaning every Tuesday it works out at a cost to me of approx £300.00 per month
 So i can assure you once a week is enough.
 This is just part of the evidence that is being used against me and countless other landlords to fine us
 Enterprise add all these fines to the rental account . How can this be?
 I have three seperate debt figures from Enterprise How can this be?
 I have also been issued with a tampering fine of £1400 from Enterprise via Brulines when i have never touch the system. How can this be?

The government has reported back on the state of the pub industry, it is time for those in authority (such as the LGO) to act. It may well be that you, like the Trading Standards and LACORS, do not consider your department has the power to act in which case presumably the whole matter needs referring to the Minister, Vince Cable. Clearly, the issue of whether the equipment and Brulines system is "in use for trade" needs to be addresses, as was highlighted once again by the BIS Committee 2011 report (below) and this falls firmly under the jurisdiction of the Business Innovations and Skills Department. Even Brulines, in their 'Comprehensive Guide to Flow Monitoring' (attached) acknowledge that if their measurements are taken directly to apply fines and levies by their clients they believe this would amount to 'trade use', it follows under these circumstances they consider it would fall within section 17 of the W&M Act and if shown to be unjust or false the use would be fraudulent. Various Trading Standards departments have found the equipment to be inaccurate and therefore a subsequent fine unjust yet none have acted upon their findings.

Flow monitoring equipment

There is obviously still a dispute over flow monitoring equipment and its use in accusations of buying-out which the Framework Code has failed to address. In addition, there is still confusion over whether it can be proved to be 'in use for trade' and therefore covered by Weights and Measures Act 1985. Unfortunately, it is clear that little, if any, progress has been made in resolving this problem. We conclude that the Code does not address this in a satisfactory manner and does not meet our predecessor's recommendation. (Source: BISC 20th September 2011)

Your office has indicated that, in your view, Trading Standards has no role, doesn't have to take action and has done nothing wrong. This week's report from the BIS department suggests that there is in fact much to do on the issue of flow monitoring.

It is apparent that Stockton Trading Standards has colluded, for a number of years now, with a private company to obfuscate and deny those affected any justice on the issue of flow monitoring. I expect you to require Trading Standards to support lawful business and not self serving companies such as Brulines. I would expect you to make Stockton Trading Standards withdraw their public statement to the press that this equipment is accurate. Public clarification is required as it my concern at the moment that the statements from Stockton are very misleading.

Regards

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113 Letter to BIS, December 2011

MATRIX: 080455
8902276713

Received in
Central Drafting Unit
05 JAN 2012

BUSINESS-SUPPORT
(30) DBS

DATE RECEIVED
23 DEC 2011

10 Dec 2011

Dear Sir,

RE: pubcos

im writing to you as i dont know where else to turn. My pub is the
have been here 6 six years cost us 50 grand to get pub off enterprise inns. I employ 7 staff and work
long hours 7 days a week its made me ill last few years business going down hill people losing there
jobs smoking ban etc. I cant afford to pay my rent 1300 pounds a week or buy tied beer off
enterprise ive told them i need to leave but now they are black mailing me if i waLK THEY WANT 6
MONTHS RENT PLUS FINES I OWE THEM FOR BUYING BEER IN AND 3 MONTHS LOSS OF
TRADE. Please help me because if i stay i already owe them 10,000 grand now plus fines and they
know i cant pay it or rent and buy beer next thing will be my house. Im up front with them but they
dont ring me back or wont let me speak to the big boss im ready for a break down you need to stop
these pubcos ive worked all my life nearly at the end of my working life and enterprise inns are just
taking ever last hope off me please

Yours faithfully,

Nataniel Debitie

Notes

- 22:30 on Saturday, 10 December 2011
- 22:32 on Saturday, 10 December 2011
- 15:49 on Monday, 12 December 2011 by Alex

114 Emails to Edward Davey, November-December 2011

Matrix: D13/660461
Lynx: 274484

D13/660461: Letter from no MP Mike Bell 274484 11Jan12 - TRIM Document Viewer

File Search Window Help

From: Davey MPST
Sent: 25 November 2011 08:47
To: Davey MPST Correspondence
Subject: FW: [Edward Davey (BIS)] Pub closures

For CCP (Team)

[Assistant Private Secretary to Edward Davey MP, Minister for Employment Relations, Consumer and Postal Affairs] BIS (T: +4420 7215 3065 | www.bis.gov.uk

-----Original Message-----
From: webmaster@edwarddavey.co.uk [mailto:webmaster@edwarddavey.co.uk] On Behalf Of
Sent: 24 November 2011 19:09
To: Davey MPST
Subject: [Edward Davey (BIS)] Pub closures

sent a message using the contact form at <http://www.edwarddavey.co.uk/web/?q=contact/Edward%20Davey%20%28BIS%29>.

I do hope you read the email to you yesterday. This says it all. There is absolutely no doubt that the pub companies are single-handedly wrecking the British Pub. They are bankrupt both morally and fiscally. They are strangling tied publicans. At first glance this is NOT an easy subject to get your head around, but it is in fact remarkably transparent what they are up to.

Please engage your brain on this. It is VERY important. I know Greg Mulholland may be a lib dem, but he has TOTALLY got the measure of this criminal activity. Please listen to what he has to say. Also Boris J can get quite incandescent. He also TOTALLY gets it. I know because he used to my MP and we spent some time planning a strategy before he became Mayor. Unfortunately he has his work cut out on other matters.

I will be copying this to Vince Cable

I can be contacted on

[Redacted contact information]

Buhecha, Heeran Matrix2 CSSM2W01

start [Taskbar icons: Internet Explorer, 5 MBG..., 2 Win..., 2 TRI..., Microsoft...] 15:12

1660467
LWX: 274486

File Search Window Help

From: Davey MPST
Sent: 07 December 2011 16:03
To: Davey MPST Correspondence
Subject: FW: [Edward Davey (BIS)] PUBCOS TIED TENANT NO WORSE OFF THAN FREE OF TIE TENANT - RICS

For CCP

Stephen Parkinson (Assistant Private Secretary to Edward Davey MP, Minister for Employment Relations, Consumer and Postal Affairs) BIS (T: +4420 7215 3065) | www.bis.gov.uk

-----Original Message-----
From: webmaster@edwarddavey.co.uk [mailto:webmaster@edwarddavey.co.uk] On Behalf Of
Sent: 07 December 2011 13:34
To: Davey MPST
Subject: [Edward Davey (BIS)] PUBCOS TIED TENANT NO WORSE OFF THAN FREE OF TIE TENANT - RICS

I sent a message using the contact form at <http://www.edwarddavey.co.uk/web/?q=contact/Edward%20Davey%20%28BIS%29>

Dear Mr Davey

PUBCOS
TIED TENANT NO WORSE OFF THAN FREE OF TIE TENANT - RICS

Following the select committee hearing yesterday you indicated a great deal of emphasis on licensees being able to rely on the BBPA code requirement that RICS guidance would be complied with on rent review assessments

As was demonstrated in the previous select committee hearing, the pub companies have a very different interpretation of the RICS guidance when addressing the principle that a tied tenant should be no worse off than a free of tie tenant. It is understood and generally accepted, by all but the pub companies, that this principle is a prerequisite to applying the supply tie and therefore should be unquestionable.

It is acknowledged that the current RICS guidance is an improvement upon the last but as the select committee final report, and indeed the Government response, identify there is an issue of interpretation in the RICS guidance. Given much rides on the correct interpretation of this document as well as its compliance, would the Government now write to the RICS and seek immediate clarification of guidance in order to ensure the principle is enshrined in the rent assessment process.

All rent assessments, particularly rent review assessments, should be signed off by a RICS qualified individual. I attach a brief information sheet which I hope is of assistance. Should you have any queries please do not hesitate to contact me.

File Search Window Help

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Yours sincerely

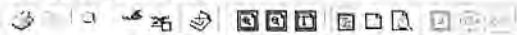
[Redacted] MRICS
INDEPENDENT PUB CONFEDERATION
Campaign Manager

ROYAL INSTITUTION OF CHARTERED SURVEYORS (RICS)

- 1 The Government response relies heavily on surveyors complying with the RICS rent assessment guidance.
- 2 Only by correctly implementing the RICS guidance can tied licensees be assured that their rent fairly reflects the disadvantages, or advantages, of being tied.
- 3 The Government response concedes there remains a significant confusion around the interpretation of RICS guidance.
- 4 The following view of the RICS, before guidance was rewritten expressly stated that,
- 5 "The Forum heard that there was some confusion in the interpretation of the guidance with the paper. For example in the treatment of the valuation of the wet rent, where it is clear to us that most lease agreements require a valuation largely on the terms of the lease. This follows the principle of the tied tenant being no worse off than the non tied tenant, a position which is arrived at with a correct interpretation of RICS guidance."
(Source - RICS Pub Industry Forum Report and Recommendations (Feb 2010))
- 6 The guidance has since been rewritten and was intended to accommodate this principle. Whilst we believe those on the drafting panel knew the meaning of what was agreed, confusion of interpretation still reigns, allowing continued manipulation and jeopardising the well meaning spirit of the Government response. Ted Tuppen effectively demonstrated in the select committee witness hearings that his view and that of [Redacted] the Enterprise Inns National Rent Controller, a participant of the RICS working group who redrafted the guidance, fundamentally differed from other working group participants including the IPC and BII representatives, [Redacted]
- 7 The IPC understanding of RICS guidance is that if undertaken correctly a rent assessment should result in a tied tenant being no worse (or better) off than the free of tie tenant. The valuation process should quantify the disadvantages of the tie and weigh them against the special commercial or financial advantages (SCORFA's) offered by



File Search Window Help



RICS

INDEPENDENT PUB CONFEDERATION

Campaign Manager

ROYAL INSTITUTION OF CHARTERED SURVEYORS (RICS)

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3. The Government response concedes there remains a significant confusion around the interpretation of RICS guidance.
4. The following view of the RICS, before guidance was rewritten expressly stated that;
 5. "The Forum heard that there was some confusion in the interpretation of the guidance with the paper. For example in the treatment of the valuation of the well rent, where it is clear to us that most lease agreements require a valuation largely on the terms of the lease. This follows the principle of the tied tenant being no worse off than the non tied tenant; a position which is arrived at with a correct interpretation of RICS guidance." (Source - RICS Pub Industry Forum Report and Recommendations (Feb 2010))
 6. The guidance has since been rewritten and was intended to accommodate this principle. Whilst we believe those on the drafting panel knew the meaning of what was agreed, confusion of interpretation still reigns, allowing continued manipulation and jeopardising the well meaning spirit of the Government response. Ted Tuppen effectively demonstrated in the select committee witness hearings that his view and that of Rob May, the Enterprise Inns National Rent Controller, a participant of the RICS working group who redrafted the guidance, fundamentally differed from other working group participants including the IPC and BII representatives, Simon Clarke, David Morgan and Garry Mallen.
 7. The IPC understanding of RICS guidance is that if undertaken correctly a rent assessment should result in a tied tenant being no worse (or better) off than the free of tie tenant. The valuation process should quantify the disadvantages of the tie and weigh them against the special commercial or financial advantages (SCORFA's) offered by companies operating the tied model. One of the SCORFA's is a lower rent, to counter inflated tied product prices, and it is the establishment of this rent assessment that needs to be the priority of RICS guidance, incapable of misinterpretation. The rationale is that rent is reduced as tied prices increase and vice versa. The quantified cumulative effect of SCORFA's (including a lower rent) should be capable of balancing the quantified effect of higher tied product prices. The revised guidance, sadly, is denying this outcome due to confusion over interpretation allowing misuse.
 8. It is of little comfort that pub companies must adhere to RICS guidance if that guidance is so easily abused. It is imperative that areas of manipulation of RICS guidance are closed.

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Windows taskbar showing the Start button, several open application windows (including Internet Explorer, Microsoft Word, and TRIM), and the system tray with the time 15:21.

115 Open letter from Justice for Licensees

From: Davey MPST
Sent: 06 January 2012 10:57
To: Davey MPST Correspondence
Subject: FW: Government Response to Select Committee Hearings re pubcos

D13/660623

277503

Importance: High
 For CCP

[Assistant Private Secretary to Edward Davey MP, Minister for Employment Relations, Consumer and Postal Affairs] BIS | T: | www.bis.gov.uk

From: DAVEY, Edward [mailto:edward.davey.mp@parliament.uk]
Sent: 06 January 2012 10:31
To: Davey MPST; Davey Ed (Mr E) MPST MIN
Subject: FW: Government Response to Select Committee Hearings re pubcos
Importance: High

Edward Davey MP
 Liberal Democrats Member of Parliament for Kingston & Surbiton
 Parliamentary Under-Secretary for Employment Relations, Consumer and Postal Affairs
www.edwarddavey.co.uk
 Te

From: Justice For Licensees [mailto:info@justiceforlicensees.org.uk]
Sent: 05 January 2012 17:38
To: David Cameron; CAMERON, David; David Cameron; CLEGG, Nick; CLEGG, Nick; CABLE, Vincent; DAVEY, Edward
Cc: Adam Pescod (PMA); Adam Warner (ITV); Alan Rook (ITV); Alex Hill (ITV); Business Russia Today; Central News ITV; Chris Lyddon; Daily Express; Daily Mail; Daily Mirror; Daily Star; Damien Fletcher (Daily Mirror); Ed Doolan (BBC); Editor USA today; Fiona Dye (BBC); J Singh-Sohal (ITV); Ken Dilanian; Lesley Foottit; London Evening Standard; Loose Women; Mail on sunday; Mickey Clarke (BBC Radio 5); Nick Sommerlad (Mirror); Nigel Wakefield; Pan Yuk (FT); Press Association; Producers Russia Today; radio 5 live; Riceman, Rosalind; Ritchie Beacham-Paterson (Devils's Advocate Prod; Roy Dennis (Work); Sam Gregory (The Sun); Simon English (Lon Ev Stan); Sinead Heekin; Sky News; Spotlight BBC; Steve Hawkes (The Sun); Sun City Desk; Sunday Telegraph; Telegraph; The Guardian; The Independent; The Observer; The Sun; This Morning; Working Lunch (BBC)
Subject: Government Response to Select Committee Hearings re pubcos
Importance: High

For the attention of the Right Honourable Messrs Cameron. Clegg, Cable and Davey

Open letter

Dear Sirs

With reference to the government response to Select Committees Reports into the practices of pub companies.

I am writing to you on behalf of many, if not all, of the circa four hundred and thirty thousand members and supporters of the Save the Great British Pub campaign. I would ask you to heed

that these people are your people, your voters, who would welcome some much needed honesty and transparency. we sincerely hope that this is not too much to ask and that each and everyone of you will answer the points raised?!?

My apologies for the openness of this letter, however as you have failed to respond to previous communications (perhaps we are not considered important enough to be shown the courtesy of a reply?) and the fact that the members have a right to be informed I have no other choice. You will note that members of the media have been copied in, pubs are far too important to be allowed to be decimated in the way that they are from within, we are hopeful that the media will want to help.

In determining the most appropriate course of action, Government has borne in mind the following principles:

- That the OFT has found no evidence of competition problems that are having a significant adverse impact on consumers and therefore the Government is not minded to intervene in setting the terms of commercial, contractual relationships.
- That legally binding self-regulation can be introduced far more quickly than any statutory solution and can, if devised correctly, be equally effective.

We these two principles in mind, we would be grateful for an explanation, in plain, clear concise English language that the majority of people would be able to understand, of the thinking behind these two principles when the following points are taken into consideration. We are hopeful that you will show the courtesy of answering the questions raised.

- Using the IPPR stats, as used by BIS in reaching their decision, the tenanted leased model equates to 28,800 pubs of 55,530 pubs in Britain, which in percentages equates to 51.863857% of the market place. Is it not clear that this is indeed a dominance of the market place by the tenanted/leased model? Is it not true that 40% of a market place equates to a dominance?
- Is it true that Competition law prohibits restrictive practices or agreements that restrict free trading and competition between business? Is it also not true that the tied model is one of these type of agreements, but is afforded protection under European law? We have been led to believe that the protection is afforded for the tie by counter veiling benefits, such as cheaper rent, have this government investigated whether the counter veiling benefits equate to the cost of the tie and if not why not?
- Is it true that objectives of Competition Law should take into account protecting the interests of consumers and ensuring that entrepreneurs have the opportunity to compete in the market economy?
- Taking it that all of the above is indeed true then why have the OFT and this government failed to understand that over renting and over pricing of products by a model with a dominant market share detrimentally impacts on the consumers? Is it not clear that it is the consumers who end up paying for these practices of the pub companies?
- How can the entrepreneurs who run pubs under the leased/tenanted model possibly compete in their own market place when restricted by over renting and over pricing of products?
- A member/supporter of our campaign requested a FOI into the OFT investigation, this was refused due to commercial sensitivity. How can there possibly be transparency when departments of this government refuse to be transparent? It is clear from the MP's expenses fiasco that there are some of power who would be willing to bend the rules for their own benefit, if government departments refuse to be transparent then how are the people of this country supposed to rest assured that all is above board and as it should be?

- Would a full market study not give the transparency that is required to be able to reach an informed and correct decision? Do the pubs of this land, the people that run them and the people that use them not deserve at least that much transparency? If not why not?
- It is clear to many that the restrictive and anti-competitive practices of the tied model do indeed have a significant adverse impact on themselves, they are clear in their thinking that the prices charged by the pubcos, in conjunction with rents that are at a level or in some cases above the open market level are costing them dearly. Why should they be deprived of drinking in a pub that they choose because they cannot afford the prices being charged, due to the cost of the tie? Why should the consumers be deprived of products they may wish to purchase in a pub that they wish to use because the licensees cannot stock the products due to the restrictions of the tie? Why does it appear so difficult for this government and its departments to understand the significant adverse impact on the consumer when it is so clear to a normal person on the street?
- Why do you think that, for example, JDW, who has a much smaller buying power than the large pub companies, can pass on the benefits of their buying power to the consumer, which enhances competition and the large pub companies with their huge buying power cannot? Why should a model which has a dominant share of the market place be allowed to continue to restrict competition in this way?

We welcome the fact that this government are mindful that there is an urgent need for a quick resolution and we applaud the fact that it should be devised correctly, that said we are bitterly disappointed that it does not appear that this resolution has been devised correctly at all.

- We would be grateful for full, complete and clear transparency on legal opinions used to reach the decisions made.
- We request details of all meetings, telephone calls and copies of ALL correspondence in relation to the governments decision and the findings of the four Select committees.
- Is this government aware that some of the large pubcos are sending out COP's to tenants that were written in 2010? How are these new and improved COP's?
- The pubcos have been found to be wanting by four Select Committees, they have had since 2004 to reform and have failed ignominiously, why do the government think that this is going to change? What proof do this government have that significant reform will indeed take place?
- This government have allowed the pubcos and their entourage to write their own regulations, the very people who have been found to be wanting, would this government allow prisoners to write the penal reform code in its entirety, would they allow the criminal underworld to write the laws of this land, what is the difference? Have this government learnt any lessons at all that self regulation can be open to abuse and can be abused?

Prior to the general election both the Lib Dems and the Conservatives agreed to follow the lead of the then government if the Select Committee found that it was a requirement, we would be grateful for a full, clear and concise explanation in English that the normal person on the street would be able to understand as to why you felt that you could say this prior to the election but have now exhibited a massive u-turn? What is the point of having the expense of Select Committees if the government fail to listen to their recommendations?

We have noted that BIS have used closure stats to help them reach their decision and yet they appear to have failed to take into account 'churn', this is where the pub business closes in exactly the same way as those on the closure stats, but the pub does not reach the closure stats because the companies place an interim management company or new lessee/tenant to run the

pub, often at a reduced rent with greater discounts, quite why they can't do this for the incumbent tenants is beyond our comprehension. How does this government justify using partial or incomplete information to reach it's conclusions?

We have noted that Ed Davey has admitted in public that the tied model does not appear to be working, we would be grateful for an explanation of why this government appears to feel that it is justified in protecting a model that does not appear to work at the expense and to the detriment of the pubs of this land, the people that run them and the people that use them. How can this government possibly justify the apparent abuse and exploitation of their voters?

We are hopeful that you will show our members the courtesy of answering their concerns with all due haste.

Yours sincerely

Inez Ward

<http://www.official-documents.gov.uk/document/cm82/8222/8222.pdf>

<http://www.morningadvertiser.co.uk/General-News/BISC-Pubco-tied-model-not-working>

<http://www.morningadvertiser.co.uk/General-News/Lib-Dems-will-reform-beer-tie>

<http://www.morningadvertiser.co.uk/General-News/Conservatives-back-action-on-beer-tie>

Inez Ward

Justice For Licensees

Tel:

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116 Email to Vince Cable, December 2012

32028 F

From: BIS Central Drafting Unit
Sent: 02 January 2013 08:50
To: BIS Central Drafting Unit
Subject: FW: pubco reform, fao Vincent Cable

Please log as 30B Pubco - Swinson - and assign to CDU1.

From: Enquiry Enquiry (Other Government Departments)
Sent: 31 December 2012 10:11
To: BIS Central Drafting Unit
Subject: FW: pubco reform, fao Vincent Cable

Dear Colleague,

Is this something you can help with?

If you are able to answer this enquiry please reply to the enquirer directly, if this enquiry is not for you to answer please reply to the enquiry email address letting us know.

Many thanks,

BIS Communications Directorate Enquiry Unit | Department for Business, Innovation & Skills | enquiries@bis.gsi.gov.uk | T:+44 (0)20 7215 5000 | F:+44(0)20 7215 0105 | www.bis.gov.uk | Blog: blogs.bis.gov.uk | Twitter: @bisgovuk

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BIS: working together for growth

From: _____
Sent: 29 December 2012 13:08
To: Enquiry Enquiry (Other Government Departments)
Subject: pubco reform, fao Vincent Cable

Dear Vincent

I used to have faith in you but you let us down badly by not following through on pubco reform.

I have a busy little pub in _____ under Enterprise Inns, who take more than twice the market rent via the rent and beer tie. In return I have not found any tangible countervailing benefits despite asking for a list of such. I have also asked for an rrp for the beer I am forced to buy from them, but this is apparently for me to decide. So when they decide to sell me Guinness at £1.80+ vat a pint, it is my problem to make enough to pay the rent. This is why pubcos encourage food and other activities, even setting up pubisthehub to promote these. They know they have already squeezed the beer to much.

Rather than any countervailing benefits they offer me a restrictive purchase list, delivered at their convenience and on 2 weeks terms max. (There effectively being no competition). Which is also why there is no complaints department.

This year was my 5 yearly rent revue, on top of increasing at rpi annually. Surprisingly they tried to increase the rent, in a recession and it was only by paying a specialist RICS surveyor to create a report

01/07/2013

with a more realistic assessment that I could negotiate a tiny reduction. Not as much as they wanted to put it up by and not as much as RICS said it should come down by. But the sheer despise of Enterprise trying to force an increase in the current climate is amazing.

The idea that they offer any support to pubs in hard times or share the risks has been utterly disproved this year, there having been no support to be had. In fact with the following Reuters report saying that Enterprise are dependent on selling pubs in order to simply service debts, they have every incentive to see pubs fail.

<http://uk.finance.yahoo.com/news/text-p-summary-enterprise-inns-141308807.html>

Please make good on your chance to save pubs, livelihoods, employment and economic growth. Give us a free of tie option at market rent.

Sincerely, 



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117 Email to BIS, February 2013

13/755857 326925

From: BIS Central Drafting Unit
Sent: 18 February 2013 15:07
To: (MPST MIN)
Subject: FW: Pub Co Tied Leases

This can be a standard line with the 'can't get involved in individual commercial disputes' introductory sentence. Please include the SoS letter as this mentions when consultation is due to be published.

thanks

From: Enquiry Enquiry (Other Government Departments)
Sent: 18 February 2013 11:18
To: BIS Central Drafting Unit
Subject: FW: Pub Co Tied Leases

Dear Colleague,

The BIS Enquiry Unit has received this email about a Campaign which appears to be the responsibility of our Department.

BIS has a target of 15 working days to respond to all correspondence, including emails.

Thank you for your co-operation.

BIS Communications Directorate Enquiry Unit | Department for Business, Innovation & Skills | enquiries@bis.gsi.gov.uk | T:+44 (0)20 7215 5000 | F:+44(0)20 7215 0105 | www.bis.gov.uk | Blog: blogs.bis.gov.uk | Twitter: @bisgovuk

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From: [mailto:]
Sent: 18 February 2013 11:08
To: Enquiry Enquiry (Other Government Departments)
Cc:
Subject: Pub Co Tied Leases

Dear Sir,

I have read your review of the Pub industry with regards to the unfair pub tie.

I would like to thank the RT Hon Mr Vince Cable for the help to Pubs.

Can you tell me when you expect this to put us on a fair footing on the price we pay for beer as I am tied to enterprise and paying almost double for my beer as I would in free trade.

I been in the Pub industry for 7 years and I have not been able to increase my prices to cover soaring costs. I cannot be competative.

Enterprise Inns answer to me regarding What Vince Cable has announced has been brushed away and they said it wont happen for years.

I employ 22 staff and I am finding business very hard and need help.
Looking Forward to your reply.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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118 Email to Vince Cable, February 2013

✓ Q13/755312 326674

From: BIS Central Drafting Unit
Sent: 13 February 2013 14:42
To: BIS Central Drafting Unit
Subject: FW: tenanted pub
 TO S/L PubCo.

Paul

From: [REDACTED] (MPST MIN) On Behalf Of Cable MPST Correspondence
Sent: 13 February 2013 11:52
To: BIS Central Drafting Unit
Subject: FW: tenanted pub

From: CABLE, Vincent [mailto:vincent.cable.mp@parliament.uk]
Sent: 13 February 2013 09:56
To: Cable MPST Correspondence
Subject: FW: tenanted pub

From: [REDACTED]
Sent: 12 February 2013 14:33
To: CABLE, Vincent
Subject: tenanted pub

Hello

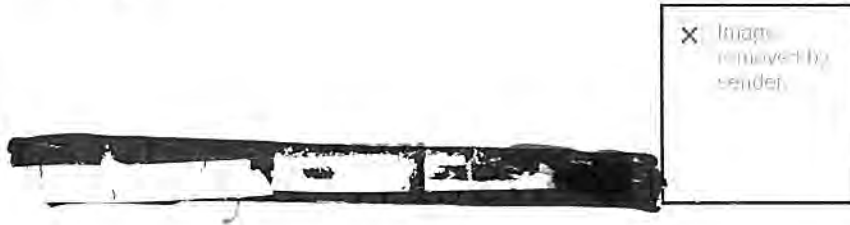
I am emailing to thank you for your progress regarding tied public houses. We currently leasing ;

[REDACTED] North Devon [REDACTED]
 from Enterprise Inns.

We generate roughly £20,000 in VAT for the economy each year & employ local people. But we only earn a maximum of £10,000 (myself & partner). Our rent of 10 % turnover would be acceptable. But the beer tie does not allow us to be competitive & we struggle to make 40 % GP on

beer sales. Our food sales are the only thing keeping us afloat.

I look forward to the outcome of the next year.
Thank you again



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119 Email to Vince Cable, February 2013

✓
 13/755248
 325055
From: BIS Central Drafting Unit
Sent: 04 February 2013 12:28
To: BIS Central Drafting Unit
Subject: FW: Another Enterprise inn Victim
 TO S/L PubCo.

From: [REDACTED] (MPST MIN) **On Behalf Of** Cable MPST Correspondence
Sent: 04 February 2013 11:06
To: BIS Central Drafting Unit
Subject: FW: Another Enterprise inn Victim

From: CABLE, Vincent [mailto:vincent.cable.mp@parliament.uk]
Sent: 04 February 2013 09:54
To: Cable MPST Correspondence
Subject: FW: Another Enterprise inn Victim

From: [REDACTED]
Sent: 02 February 2013 14:01
To: CABLE, Vincent
Subject: Another Enterprise inn Victim

Sir,

Although I am not in your constiutory I'm glad that the time has come that the politicians of our country are now realizing exactly how ruthless the pubcos are.

I have a Enterprise lease in [REDACTED] where several pubs have closed including ones owned by Enterprise Inns in the past few years.

I have tried to negotiate for a realistic rent reduction and a barrlage discount but the rent reduction they offer our pub will still makes a loss and when the rent is increased annually with the RPI in 5 years we will be back to square one.

I have jumped through all the hoops Enterprise have stuck in front of myself and my wife so they can drag the process out, P&L, Stock checks, daily takings etc. but they still refuse to give enough support to get the pub back into the black.

I had a Independent Survey done by a RICS company [REDACTED] who stated last year that a fair rent would be £24K, i believe if I got the report again this figure would be even lower.

Fair maintainable trade over the last three years the barrellage has fallen like most of the pubs in the industry but they show an increased figure which inflates the FMT.

They also show we do food adding thousands we don't even have a kitchen.

Where does Mr Ted Tuppen get his quote "the average enterprise publican earns £45K"

I would appreciate any comments and or advices you may be able to provide. At this stage in the game my wife and I feel we have no-where else to turn barr handing the keys back, losing a family

business and our savings in the process.

I look forward to hearing from you in due course

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Being tied to enterprise is crippling the pub industry when they charge extortionate prices compare to free of tie.

I agree they are a business as well but to have the high rent and be tied is not the answer.

We have been told it is possible to be free of tie but the rent then doubles its a loose loose situation.

I expect you must receive thousands of e-mails but if you can offer any advice it would be very much appreciated.

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120 Email to Brandon Lewis, April 2013

BL/TO

334787/D13/773481

Page 1 of 3

PUBS

CARL LAUGHNA

From: [REDACTED]
Sent: 07 April 2013 17:01
To: [REDACTED]
Subject: FW:

Sent from Windows Mail

From: [REDACTED]
Sent: 07 April 2013 16:59
To: Brandon@
Subject: FW:

Afternoon Brandon,

You might like to share this example with Vince Cable regarding a simple case of Peroni- I'm tied to Enterprise Inns on beers only, fortunately, but they're taking the mick on the premiums they now charge.

Regards [REDACTED]

As ever,

Sent from Windows Mail

From: [REDACTED]
Sent: 05 April 2013 10:16
To: [REDACTED]
CC: [REDACTED]@enterpriseinns.com [REDACTED]@enterpriseinns.com
Subject: RE:

Morning

Good to hear back from you- excellent point on our website listing- noted and will be amended.

Regardless of the spin Admiral and co might use, my issue is that your prices for beer are still excessive compared to the market- more than prepared to pay a premium but not up to 75% more.

Regards,

Sent from Windows Mail

08/04/2013

From: [REDACTED]
Sent: 04 April 2013 19:49
To: [REDACTED]
CC: [REDACTED]
Subject: RE:

Good evening

Thanks for your note – I'm glad to see you haven't lost your sense of humour!

You mentioned Admiral in your note to me last year, and you may recall that, when we met, I explained to you that your interpretation of the stance taken by Admiral (or at least the content of their press release) was not quite fair. We have Publicans who have pubs with both ourselves and Admiral, who say that a very selective price freeze on brands such as Carlsberg Export or Symonds cider is not necessarily that helpful.

I hope things are going well at Bartellas – the customer comments on your website would certainly seem to suggest so. (Is it my sorting skills that are lacking, or might it be better if the most recent comments were at the top of the page rather than at the bottom?)

With best wishes



Simon Townsend
Chief Operating Officer

M: 07990 550 200
T: 0121 256 3310
F: 0121 256 3419
simon.townsend@enterpriseinns.com

Enterprise Inns plc, 3 Monkspath Hall Road, Solihull, West Midlands, B90 4SJ
T: 0121 733 7700 | www.enterpriseinns.com

From: [REDACTED]
Sent: 03 April 2013 17:23
To: [REDACTED]
Cc: [REDACTED]
Subject:

Afternoon.

Thanks for your letter dated 22nd March regarding the changes in duty.

I've had to put my beer prices up because I need to claw back the 75% Tuppen Tax you guys charge above the market rate on Peroni for example.

I note that Admiral have refrained from upping the ante for the last three years.

Regards,

08/04/2013

121 Letter to Vince Cable, January 2013

Table

522154

TEL.

14 JAN 2013

Dear Sir

10-1-13.

On reading your article in the newspaper dated Wed 9th Jan. I am glad to see there is someone who is willing to help people like ourselves trying to make a living in the Pub Trade. We run a Public House in

There are a great number of Pubs surrounding us who buy beer from our Brewery, who are not Pubs belonging to the Brewery Estate, at a price of around £60-70 cheaper than what we can buy it off our Brewery. This means that these Pubs can sell this

beer bought from our Brewery
at a lot lesser price than
what we can sell it.

There is also a problem with
the mark up price of products
bought by the Brewery and
then sold to us at a vast
profit.

I totally agree with your
comments made and your new
code of Conduct, which should
help Pubs like ourselves
to survive. We work long
days and nights to try
and keep afloat.

Yours sincerely



122 Letter to Vince Cable, January 2013

enrail
Tel

Pub
Co

Received
Central Drafting Unit
18 JAN 2013

11th January 2013

Vince Cable Esq.,
Liberal Democrats Office,
2a Lion Road
Twickenham
TW1 4JQ.

RECEIVED
14 JAN 2013

Crackdown on Pub Companies

Dear Mr Cable, I am delighted that you are going to crackdown on Greedy Pub Companies. In my case 22 years too late!

In ~~1991~~. I left ~~the~~ Hotels (~~in~~). After 30 years running managed and tenanted pubs I was operations Director running over 500 Pubs for ~~the~~ in the South West and Wales ~~the~~ were the first major brewers to introduce the 20 year lease. I and my tenanted site managers controlling and advising 50 pubs each were considered surplus to requirements.

I publicly stated at the time that this would be a disaster as it was based on greed and a flawed business Plan.

Property wizard kids took over with no knowledge of the licence trade

They interested tenants. Made the ~~pub~~ lease full repairing thus transferring a huge capital risk to the lessee. Many of these pubs had suffered loss of Brewery investment for years. Reckoned they would find a new type of licensee ie someone they could come into partnership with up to £50k. They were only interested in collecting rent. The economy of the time was good and masked the problems for several years. All the other brewers followed a no! subsequently sold their estates to the like of Punch Taverns who have been even more ignorant of how to run pubs.

There are many like me who have watched the decline of the pub trade with anger and sadness. Your Independent adjudicator will need help and experience I offer my services!

Yours sincerely





123 Email to Vince Cable, February 2013

2 13/755817 327532

From: [REDACTED] (MPST MIN)
Sent: 25 February 2013 16:46
To: [REDACTED] (MPST MIN)
Subject: FW: Sale of [REDACTED] (a Marston's leased house)

Attachments: The [REDACTED] sale fiasco.doc
 Please log as treat official standard line for PUBCO

Thanks

From: Enquiry Enquiry (Other Government Departments)
Sent: 22 February 2013 12:27
To: BIS Central Drafting Unit
Subject: FW: Sale of The Crown Inn (a Marston's leased house)

Dear Colleague,

Is this of any interest to Dr Cable or BIS?

Kind regards,

BIS Communications Directorate Enquiry Unit | Department for Business, Innovation & Skills |
enquiries@bis.gsi.gov.uk | T:+44 (0)20 7215 5000 | F:+44(0)20 7215 0105 | www.bis.gov.uk | Blog:
blogs.bis.gov.uk | Twitter: @bisgovuk

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From: [REDACTED]
Sent: 22 February 2013 12:17
To: Enquiry Enquiry (Other Government Departments)
Subject: Sale of [REDACTED] (a Marston's leased house)

Dear Mr Cable

Please find attached correspondence between us and Marston's in regards to the sale of our lease of [REDACTED].

The sale was blocked by Marston's at the last minute and it became very apparent that there were several derelictions of duties at play.

The way large Pub Companies deal with leased pubs has been a bone of contention for a long time and I know that you are involved in your capacity as Secretary of State for Business, Innovation & Skills in ensuring that the Pub Companies are legislated and forced to trade fairly.

In this respect I believe you will find the attached of interest.

Your comments are always welcome.

Kind Regards



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[REDACTED]

To Whom It May Concern:

I write this letter in regards to the 'shambles' that was the sale of [REDACTED]. I know that you are familiar with it as we have sent previous correspondence to you.

The sale which was due complete on 8 February was blocked at 4:15 pm of that day. The reason was that the business plan of the incoming Landlord was not in terms with your 'Code of Practice'. I was told that if this had been allowed to stand you would open yourself up to a compensation claim if the business failed within two months. After a week of back and forth wrangling, [REDACTED] finally sorted the sale by reducing the rent for the incoming lessees ([REDACTED]). This would allow them to input the new figures into their business plan which in turn would allow it be authorised. When this was done the sale was finally completed on 15 February.

In regards to this I would like bring up the following points:

1. The original business plan was submitted to [REDACTED] at the initial interview, and not once were the figures queried and the possibility of the sale being blocked discussed. This suggests to me that [REDACTED] sat on the figures and didn't get them authorised. For this reason I find him personally responsible for the fiasco that followed.
2. The business plan of [REDACTED] was based on figures which they got from six years of my accounts. If their figures were deemed unsuitable with your 'Code of Practise' why did Marston's allow me to trade from 2006 – 2011 with a rental package totalling to nearly £40, 000.00, and from 2011 – 2013 with a rental package of £29, 000.00?
3. Because of the high level of rent I had to reduce the selling price of the lease by £5000.00 in order for [REDACTED] to be able to afford your 'full repairing lease'. So in fact [REDACTED] have come out of the deal rather well whereas we have been totally ignored and left to flounder by Marston's. It now transpires that you knew that one level of rent was not sustainable and have given [REDACTED] a considerable discount. Thus it follows that had you dealt with this in the first place we would not have had to reduce the sale price of the lease. It would seem that if you pay your bills and practise honest business Marston's are happy to charge high rents and it is not until they are faced with possible legal action that they are willing to lower rents and be reasonable.

[REDACTED]

[REDACTED]

In regards to the above points I suggest the following in order to make this fiasco easier for us to forget:

1. We get a personal apology from [REDACTED]. His behaviour and lack of professionalism not only led to the sale being blocked and [REDACTED] and I to endure needless stress but his behaviour afterwards suggested that he was never interested in sorting out the problems he created. It took the intervention of [REDACTED] to sort the problem and get the sale completed.
2. We receive a rebate equalling to one year of the rental reduction [REDACTED] [REDACTED] received plus the £5000.00 which we had to reduce the lease price by in order for [REDACTED] to afford the lease. This would in some way solve the issue of our accounts being outside of your 'Code of Practice'.
3. The breweries solicitor's fees are waived as an apology for the stress, anxiety and incompetence we had to go through when the sale was blocked due to no fault of our own.

All previous correspondence has been shared with [REDACTED] and Vince Cable, both of whom have shown an interest in the way breweries conduct business with their leasehold pubs. The fiasco which was the sale of [REDACTED] has been a clear example of this dereliction of duty and I believe they will be interested in seeing how this situation is resolved. I also believe that many newspapers would be interested in our story and legal action on our part has not been discounted.

I trust that this situation can be resolved quickly and amicably.

Kind Regards

Please find below my complaint regarding the sale of the [redacted] in [redacted].

Background

The [redacted] in [redacted] is currently owned and run by my partner [redacted]. He has been the lessee since March 2006.

I have only had a minor role as I have my own career, but the stresses and pressures are the same for both of us.

Since we have been in the pub we have built up a good customer base, kept it in good decoration and handled a recession that continues to bite.

We decided to put the pub up for sale three years ago. Despite a number of viewings no sale ever proceeded. The high rent was a factor, particularly for people who had seen other pubs where the rent was around 15k. A reduction was agreed, though it did take 4 months to process and in September 2012 [redacted] viewed the pub and decided they wanted to buy it. In October 2012 [redacted] interviewed and approved [redacted] subject to their business plan. [redacted] had stated that they wanted to takeover the pub by 10 December 2012 and we agreed that we would do everything we could do complete on that date.

[redacted] instructed a surveyor and eventually so did the brewery. The brewery surveyor spent around an hour in the property and charged around £800, not bad for an hours work. Aside from a few minor repairs he stated that the pub was in good order.

During December things slowed down and it became apparent that we would not complete in December. The business plan was not finalised and [redacted] had some family matters that needed to be attended to but she said she would be ready to go at some point in January 2013.

At the beginning of January 2013 [redacted] had their personal license and their CRB check was complete. All that remained was for [redacted] to sign off the business plan.

Please note that at no time were myself or Thomas asked to look at the plan, but we knew that [redacted] had drafted one and we also knew that they had the funds to proceed.

On 2 January [redacted] emailed [redacted] and asked whether [redacted] paperwork was now all signed off he responded as follows:

'She had some doubts over repairs and covenants pre xmas...

As soon as she is ready to proceed we will instruct solicitors...

She has personal licence and is ready from that point..'

Please note that there is no mention of the business plan not being approved or finalised. [redacted] informed [redacted] that the issues regarding the repairs had been resolved.

We understood that upon approval of [redacted] paperwork this would be passed to [redacted] of your in house legal team and he would then instruct your solicitors. This process is driven entirely by the brewery and as the assignor [redacted] had no control over the decision to instruct.

On 21 January [redacted] was advised by [redacted] that the paperwork was in order and the brewery's solicitors would be instructed. We were not aware that there was any further work to be done on [redacted] business plan.

Following the instruction of your solicitor, myself and [redacted] had to pay £2,500 to your solicitor in order that she could give an undertaking to pay your fees. It was not easy for us to find this money, but we realised it had to be paid and as the sale of the property would go through in the next few weeks we paid it. In addition we had to pay £1,000 to our solicitor, these monies are being held on our client account. We have no access to these funds and now the sale has not gone through our cash flow situation has been seriously compromised.

The draft contracts were drawn and all of the paperwork niggles were ironed out. A completion date of 8 February 2013 was agreed and your solicitor was aware of the date. [redacted] has stated that the funds for completion may not be ready for the 8th and should this be the case could we exchange on the 8th and complete on the 15th. Our solicitor was under the impression that this was a cash purchase and pushed back on this. She asked [redacted] to contact us directly if they wanted to discuss this. An e-mail was received some time later stating that exchange and completion were ok to take place on the same day. Your solicitor was aware of this date and no objection was made.

With the date for completion looming we had to find somewhere to move to and we decided to rent a house for 6 months to give ourselves some time for [redacted] to find a job and find a house to buy. We found a property and paid the application fees and signed the tenancy agreement on 7 February. This would give us sufficient time to move our belongings out of the pub and leave the flat empty for 8 February, being the date of completion.

On 8 February [redacted] headed up from [redacted] and was due to arrive at the pub at 1.30pm. We had agreed for the stock taker to come at 1pm.

At 2.30pm we received a phone call from our solicitor requesting a copy of the buyers' insurance certificate. We were advised that this was the last piece of information required and then completion would take place.

[redacted] were due to open the pub at 6pm and as such we allowed them to bring some of their furniture in to save them time and also to allow them to collect more items from a storage facility.

At 4pm we had heard nothing. At 4.15pm our solicitor called to say that something in the business plan needed to be sorted and nothing could happen until then. This was the first we had heard anything about the business plan not being finalised.

At 4.50pm [redacted] called [redacted] and informed him that the sale will not complete as the problem with the business plan cannot be resolved. [redacted] was so upset by this that I had to take over the call. [redacted] informed me that the problem was resolved, but that it needed to be signed off by [redacted], who was on the M1. [redacted] advised that this would be resolved on Monday morning.

I questioned [redacted] as to why the brewery has allowed this matter to go so far if the business plan was not finalised and he informed me that we had agreed the completion date without consulting the brewery and therefore it was nothing to do with him. [redacted] also went to great pains to tell me of all the work he had done to fix this, no apology, no explanation just his own self-promotion.

To our total shock and horror we had to remain in the pub and [redacted] had to go and stay at a hotel. They had bought various animals with them and they asked us if we would look after them as they were already stressed from the journey and we agreed.

had to open the pub and work all evening. Have I mentioned the leaving party we had the night before in which we were given gifts and money? Well you can only begin to imagine how humiliating this was for [redacted] to have to open the pub and explain why he was still there.

Myself and [redacted] were very upset all weekend but held on to the fact that it would be resolved on Monday.

Monday morning arrived and there is no communication. I am appalled by this and so is our solicitor. Despite placing various calls with [redacted] and [redacted] no one has the courtesy to respond. In fact [redacted] assured me by e-mail once again that it is just awaiting sign off and then it will go through.

At around 3pm [redacted] called [redacted] and told him that she would not be approving the business plan and that the sale would not complete. She also kindly informed him that it was basically his fault as he had not followed the code of practice ("COP"), I will deal with this point in more detail later on. She also advised that [redacted] should have told us earlier in the day. At this stage [redacted] is working behind the bar and waiting for [redacted] to return.

You had not bothered to have your solicitor let [redacted] solicitor know and instead it was left to Thomas to deliver the bad news [redacted] I believe is now staying in a hotel having given up her own home to move to the [redacted]

We have not been able to move into our new house as it is 5 miles away and we must now be around to run the pub. All of our belongings are in the new house and [redacted] is forced to sleep on the sofa whilst also using our friend's house near to the crown for meals etc. I am staying at our friends house as I do not want go to the pub as its too upsetting. I have to make regular journeys to the house to collect clothes and food and other things I keep realising we need. This is not ideal.

Subsequent contact

Phone call between [redacted] and [redacted] on Monday 11 February 2013

[redacted] called me at around 5pm and advised that the business plan was 95% there. I asked for an explanation as to why you instructed your solicitor on this basis and I was told that this is what you always did when the business plan was almost ready. This is clearly absurd. It either is or it is not. It is unprofessional and negligent to instruct your solicitor, for whom we have paid, to complete a transaction that was not ready.

It should be noted that during all of his telephone contact [redacted] is a rude and obnoxious individual. There is no apology, no empathy for the situation in which we now find ourselves and continues to tell us about all of his hard work. This is unacceptable.

It seems that the main concern for the brewery is protecting itself. It doesn't want to complete on a transaction for which it may be held negligent in the future because of a breach of the COP. I contend that you are already negligent whilst continuing with your current behaviour.

[redacted] advised me that he would work on some figures and revert back to me the next day. I had not been happy with the lack of communication from anybody at the brewery and requested a call early the next morning.

Phone call between [redacted] on Tuesday 12 February 2013

[redacted] did call me early on Tuesday morning to provide me with an update. He advised that 2 options were to be considered and that his manager would be working with him to find a solution.

I requested an update that afternoon. At around 3 pm _____ e-mailed me and said that 'hopefully' he would have an answer for us at the end of the week.

This timescale is not acceptable and I emailed him to advise that he must re-evaluate and find a solution within the next 24 hours.

I received no response.

Phone call between _____ and _____ on Wednesday 13 February 2013

At around 8.30am on Wednesday morning I called _____ and left a message on his voicemail. I advised that if we didn't have a solution by 12pm I would be referring to manager.

_____ called me back about an hour later and started the conversation by telling me he didn't appreciate my aggressive messages. _____ seems unable to comprehend the living situation we are currently in or the stress and anxiety this is causing.

_____ informed me that he has also not enjoyed sitting in a hotel all afternoon on Friday trying to sort this out. Excuse me if I have no sympathy for this. I informed _____ that this was really his job to sort this matter out, he told me that it wasn't. In fact he said that if he so decided he would forget this whole matter and let us get on with it. This seemed to be a threat to desist from causing a fuss else he would not help us at all.

He said it was our fault for the following reasons:

1. We had found unsuitable buyers;
2. We did not comply with the COP as we had not ensured that the business plan was robust enough;
3. We didn't exchange on the 8th and complete on the 15th;
4. _____ had signed the lease.

At no point did _____ accept any blame for your company and said that he was sick of us blaming him. To clarify I blame him entirely. If there was a problem with the plan he should have said so sooner and not at 4.50pm on the day of completion.

_____ appears to be desperately trying to find others to blame whilst all along the process has been controlled by the brewery. If the brewery was not happy with the business plan it should ever have agreed the completion date.

When I informed _____ that our cash flow was reduced due to monies being held for solicitor's fees he stated 'you've been trading all weekend you have money from that'. Charming.

Code of Practice

Over the last few days both _____ and _____ have stated that this situation is our fault as we have not complied with the COP.

I have downloaded said document to review our alleged our obligations.

Page 6 details what will happen at an applying tenant's second meeting, extract below as follows:

Second Meeting

If you are keen to take on the pub our BDM will arrange to meet you for a second time. At this

meeting you will be asked to bring a business plan for the pub assessed and approved by a

suitable third party business adviser (such as an accountant, solicitor, chartered surveyor, independent financial adviser) and your designated Business Development Manager. For details

on what we expect a business plan to include please visit our website

Please point out to me where it is the assignor's responsibility to check the business plan.

Now let us turn to page 19 of the COP. This section is concerned with 'how to assign your lease'

HOW TO ASSIGN YOUR AGREEMENT

For our lease you have the ability to assign with our consent. If you ask to assign we will respond

by sending you a guide to selling your lease. The guide will give you details of our fees associated with assigning your lease. Your BDM will work with you to let you know about the

professional support and advice that is available to you as well as details of all our procedures.

The potential purchaser of your lease should receive the same commitment and supporting

information as a new lessee entering one of our pubs. With this in mind you must provide your

assignee: with 3 years trading information (if this is unavailable a reason why must be provided)

and you must insist that the assignee demonstrates they have complied with pre entry training

and obtained professional business advice and produced a business plan. If we agree to waive

any of these conditions we will write to you confirming such a waiver.

We will not unreasonably withhold our permission to assign. However, we will interview the

person you plan to sell your lease to. To enable us to make an informed decision we require your

potential assignee at the interview to have a competent business plan reflecting a forecast profit

and loss account with cash flow, evidence of an acceptable cash reserve and references.

This process will be easier if you have shared all your accounts with them so they can draw up a

business plan. We will help you by providing a 5 year volume history. It is highly unlikely we will

approve an assignment if we have not seen a competent business plan and proof of

funding.

I have underlined two parts of this extract which are pertinent to your accusations. I have produced a business plan. There is no requirement here for us to check its contents or feasibility. We have never been asked to look at the plan, though [redacted] tells me that he should never have been involved with the plan and that he has done far more work than he should have done, as a favour to us. Again self-promotion in spite of a situation which would never occurred had it not been for his approval of the plan in its current form.

The second part of the extract I have underlined speaks for itself. Please let me know if the 'we' referred to as being responsible for approving the plan is not the brewery.

I also take issue with reference to the availability of professional support and advice. Your BDM's can barely be bothered to answer their phones let alone deal with this matter.

Current situation

It is now the evening of 13 February 2013 and this situation is not resolved. Incidentally Thomas has called and e-mailed [redacted] and received no response.

This situation is not being given the urgency it needs and [redacted] informed me that if he wanted to he would make me wait until Monday 18 February when his manager returned to work.

[redacted] are in a hotel in Derby for which they are paying themselves. Their cats are at the pub as they were unable to take them with them. I had put our cats in the cattery for a few days while we moved. They are still there because we are in limbo. This is costing me £13 per night.

Responsibility

In case you are in any doubt as to where I believe the blame lies, it is with your company and your incompetent BDM, [redacted].

A mistake was made with the plan and you are unable to admit it or fix it in an acceptable timescale. It is clear that the responsibility for the plan lies with you, not us.

You negligently instructed your solicitor to complete a transaction which you could not complete. Since the mistake has been made you have placed the blame at our door.

[redacted] and I cannot cope with the not knowing until the end of the week and you need to resolve this matter now.

Solution

[redacted] and I are very angry about this situation. Had you admitted your mistake and found a swift solution we may have been able to move on and forget about this whole sorry mess. However, on top of your total mismanagement you have continued to torture us with your incompetence and had the audacity to blame us.

This is totally unacceptable. In addition to coming up with a solution by 3pm on Thursday 14 February I expect compensation. Our legal fees have increased £500 plus VAT. I will have my solicitor prepare a separate bill for you as you will be paying this.

My cats boarding fees are in the region of £150 and had it not been for this mess they would be in my new house, as would we!

I also suggest that you pay your own legal fees as a gesture of good will and that you do not apply rent charges for any of the extra time we have been forced to stay at the pub.

[redacted] and I expect a written apology along with an explanation as to the following:

1. Why did you instruct your solicitors if you were not ready to proceed?
2. Why do you blame us for picking the date of completion as if your solicitor was not able to participate in the decision?
3. Why do you continue to blame us for the failure of the business plan?

I trust that you now fully understand the situation and that I have made myself clear. I look forward to hearing from you with your proposals.

Regards

124 Email to Vince Cable, February 2013

813/755980

328099

From: BIS Central Drafting Unit**Sent:** 01 March 2013 10:52**To:** BIS Central Drafting Unit**Subject:** FW: Beer ties and beer duty

Please log as TO Standard plus - Pub companies - will need cont from HMT re beer duty.
Adam

From: BIS Central Drafting Unit**Sent:** 28 February 2013 11:19**To:** BIS Central Drafting Unit**Subject:** FW: Beer ties and beer duty

PubCo?

From: _____ (MPST MIN) **On Behalf Of** Cable MPST Correspondence**Sent:** 28 February 2013 09:50**To:** BIS Central Drafting Unit**Subject:** FW: Beer ties and beer duty**From:** CABLE, Vincent [mailto:vincent.cable.mp@parliament.uk]**Sent:** 28 February 2013 09:38**To:** Cable MPST Correspondence**Subject:** FW: Beer ties and beer duty**From:** _____**Sent:** 28 February 2013 04:33**To:** CABLE, Vincent**Cc:** _____**Subject:** Beer ties and beer duty

Dear Dr Cable

I am the licensee of a very traditional English pub in the midlands. We are a community pub and we pride ourselves on maintaining a high standard of responsible drinkers who love coming to our pub for good food and drink and particularly an enjoyable environment for them to socialise with family and friends.

We have a lease with one of the large Pub Co's and we are not allowed to buy in our beers and ciders from anywhere else apart from them. Consequently we are already at a disadvantage from freehold pubs who can buy their beer in much cheaper than ourselves. We are struggling to make ends meet due to a downturn in people coming out for food and drink due to the continual price rises that we keep having to implement because of the yearly price rise from the brewery and the additional cost of the yearly beer duty escalator.

Every week we hear about more pubs closing because they go bankrupt.

I have recently heard that you may be looking at doing something about the beer tie with the Pub Co's which may help our situation, but this really needs to be addressed sooner rather than later before most of our pubs go under. I live in a fairly affluent town but the customers are already starting to stay at home and quite a lot have said they will stop coming in if the prices go up any more.

If something was done about the beer tie and we could buy our beer cheaper then we may stand a chance of surviving, but if not then I do not see much hope for the future of our pub industry.

A quote which I have just read in an article states 'Deputy PM Nick Clegg's election manifesto vowed to tackle the escalator for "unfairly penalising responsible drinkers, pubs and important local industries". Obviously he is now going back on his word since he was elected, which is nothing unusual for politicians. However, I do not think that most people in this country will continue to stand by and accept the excuses of the government in penalising everyone for their incompetence in running this country and their inability to control the massive deficit that has accrued. It is all too easy to blame past governments for the deficit but I am sure there are other ways of raising funds to start reducing the amount.

Most people understand that we have a problem which needs to be resolved and I am sure that the majority would accept a small increase in income tax rather than several indirect taxes which is what you are doing. I really do think that unless you do something drastic you will lose the next general election because people have had enough of being penalised for your failings.

I was not a great supporter of Mrs Thatcher and I do believe that she became too powerful for her own good, but I have to say that as far as housekeeping went she was excellent and it is my belief that most women are much better at controlling budgets than men are, mainly because it is women who run the household budgets in the majority of families.

The other issue which people get very annoyed about is that it is a well known fact that politicians cannot be trusted and tell people what they want to hear just to get them through the next election. It is when they are in power that they go back on their word. In my opinion 'HONESTY IS THE BEST POLICY'.

Kind Regards

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125 Web form submission to Nick Clegg, February 2013

328089
CCP

2/19/02

Incident #151084

next

User profile - merge

Tickets

- New, Open, or Pending (1)
- Solved or Closed (0)
- Assigned to you (0)

User notes -

Subject

Submission From Web Form: Contact Us / Submitted On: Mon, 11 Feb 2013 (03:01)

Status Solved Priority - Group Leaders correspondence Assignee* Correspondence Assistant

Tags

non_political x filed x

Trade DBIS (CPA)

Comments

Submission From Web Form: Contact Us
 Submitted On: Mon, 11 Feb 2013 (03:01)
 Submission ID: 51605

Section: Your Comments

Subject: Nick Clegg

Enter your comments: 09 February 2013

Subject: Enterprise Contracts

Dear Mr Nick Clegg

I have merely had this pub for a small number of months, furthermore presently hold an Enterprise, Unique Pub Properties Limited, Beacon Retail Partnership Tenancy Two year contract. I am aware with the aim of a new statutory code of practise for pubs companies that are in place in regards to "Tie In" contracts the 10th January 2013. However, are you able to enlighten me as to whom I require to make contact with in regards to an adjudicator/supervisory body otherwise someone who is capable of being of assistance in regards of renegotiating a new contract. I am literary holding on at this instant by my fingertips furthermore in arrears I have under no circumstances been in prior to. It is not possible for me to build in the least revenue to pay my bills, delivery charges, fines for purchasing supplies elsewhere etc. Whilst I went into this contract, a well-versed area manager [redacted] promised me verbally, a different contract to the printed contract I received. Regrettably, I had no opportunity to use a solicitor to interpret this documentation to me or go through this first with this solicitor, as there was not the time to do so. At this point in time, I was under excessive emotional pressure, attending to my mother in law at [redacted] hospice, this well documented. Whilst I was there, I received a call on my mobile, [redacted] informed me I had 30 minutes, if I still required this property, since he was about to go on holiday, and that this was all the time afforded to him. [redacted] said that to smooth the progress that he would drive me to a solicitor's office, since there was no time to waste, adding that others were interested in the property. Furthermore, that any solicitor would be satisfactory and would be well versed in what is required to do. [redacted] subsequently drove to a solicitor, after which he indicated a solicitor's office, informing that he requires that I go into the office taking the documentations, sign the documents and pay their fee. I look forward to your response, to who can help with renegotiating this "Tie In" contract which as been currently highlighted in the House of Commons. Best regards

[redacted]

Section: Your Contact Details

Title (Mr/Ms/etc.):

[redacted]

First Name

[redacted]

Surname:

[redacted]

Address

[redacted]

Postcode

[redacted]

Country:

[redacted]

Telephone

Trade DBIS (CPA)
[redacted]
[redacted]

126 Email to BIS, March 2013

From: BIS Central Drafting Unit
Sent: 18 March 2013 14:26
To: BIS Central Drafting Unit
Subject: FW: Pubs in peril
Follow up to 329610. CCP?

From: [redacted] [mailto:[redacted]]
Sent: 18 March 2013 14:04
To: BIS Central Drafting Unit
Cc: adrian.bailey.mp@parliament.uk; greg.mulholland.mp@parliament.uk; vince.cable.mp@parliament.uk
Subject: Re: Pubs in peril

Dear Central Drafting Unit

NO, I do not find this helpful.

When I first read Mr Cable's letter back in February, I wrote to Adrian Bailey, who said – and I quote "Good comments - will inform our questions when we interview the industry prior to giving evidence". The point being that the longer one is involved with this issue, the better one understands it. Mr Bailey and [redacted] (who said "statutory codes are NOT the answer") have been immersed in this for many years and totally "get" the problem.

The pub companies have been given too many chances to get their houses in order and **they, coupled with their spokespeople, the BBPA, are giving you the runaround.**

Statutory codes will not kill off the criminal securitisation model, only fresh legislation regarding right to buy and tie removal (as outlined in my letter) can achieve this.

Please make sure that Ms Swinson understands that this issue goes WAY beyond statutory codes.

sincerely

From: BIS Central Drafting Unit <centraldraftingunit@bis.gsi.gov.uk>
Date: Mon, 18 Mar 2013 13:01:51 -0000
To: [redacted]
Subject: RE: Pubs in peril



Our ref: EP/329610

127 Email to Vince Cable, January 2013

320964

)

From: BIS Central Drafting Unit
Sent: 09 January 2013 14:28
To: BIS Central Drafting Unit
Subject: FW: Leasehold Public Houses - Idea
 TO S/L Pubco.

From: (MPST MIN) On Behalf Of Cable MPST Correspondence
Sent: 09 January 2013 14:16
To: BIS Central Drafting Unit
Subject: FW: Leasehold Public Houses - Idea

From: Enquiry Enquiry (Other Government Departments)
Sent: 09 January 2013 13:31
To: Cable MPST Correspondence
Subject: FW: Leasehold Public Houses - Idea

Dear Colleague

Is this something you can help with?

Regards

Enquiry Unit Assistant | _____, @bis.gsi.gov.uk
 | T: 0207 215 5000 | www.bis.gov.uk | Blog:
 | blogs.bis.gov.uk | Twitter: @bisgovuk | YouTube:
 | www.youtube.com/bisgovuk

The Department for Business, Innovation and Skills (BIS) is making a difference by supporting sustained growth and higher skills across the economy.
 BIS: working together for growth

From: [mailto:...] [mailto:...]@bis.gsi.gov.uk
Sent: 09 January 2013 13:16
To: Enquiry Enquiry (Other Government Departments)
Subject: Leasehold Public Houses - Idea

Dear Mr Cable,

I understand you have been looking at the treatment of publicans by the large Pubco's of late.

Might I suggest that the law on leasehold enfranchisement (right to buy off the landlord) be expanded to make pubs eligible to be bought by their tenants ? This would generate a good bit of economic activity and may help many struggling publicans.

01/07/2013

Regards

[REDACTED]

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128 Email to Vince Cable

Dear Mr Cable,

I am pleased to read the news today that finally the message regarding the plight of our British Pub is being acknowledged, In my opinion one of the biggest reasons that the Pub trade has suffered to such a degree is not just the downturn in the economy but as quite correctly reported the heavy handed shareholder driven bullying of the PubCos.

Ever since the monopoly commission decided that carving up the pub industry was a good Idea it has led to the pub industry being dominated by a few very large and powerful companies who own about 80% of the British Pubs, in a downturn like the present the companies have to seek maximum returns which leads to the short term view that they all take (if I was in charge of one of these companies I would probably be doing the same as it is prudent for a PLC).

You are quite right to challenge the immoral aspect of inflating rent and tied pubs ridiculous levies on their purchases but the main catalyst for the demise of pubs apart from the economy and a changing social attitude is the fact that a Pub which is tied is at an economic fiscal cliff to use the jargon and it is probable that if a Pubco can see the demise of a Pub leaving behind an Asset which can be turned into real estate or sold of to a supermarket it becomes a very appealing prospect.

One of the biggest problems that the Pub industry faces apart from what you are trying to address is the way that a pub can be engineered into its own demise and then very easily closed and sold, which satisfies the shareholders but once a pub closes it is very unlikely that it will never open again as you well no!

If there is anything that can be done to strengthen the planning laws to address the pub issue it would be well received, I am aware of the right to buy and the financial viability test etc re planning but these are easy to circumvent and if I was in charge of a PLC I would be bound to try and get maximum value from every asset that I was in charge of Long term and short term!

Regards



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129 Email to Vince Cable, February 2013

321066

If you are able to answer this enquiry please reply to the enquirer directly, if this enquiry is not for you to answer please reply to the enquiry email address letting us know.

Many thanks,

BIS Communications Directorate Enquiry Unit | Department for Business, Innovation & Skills
| enquiries@bis.gsi.gov.uk | T:+44 (0)20 7215 5000 | F:+44(0)20 7215 0105 | www.bis.gov.uk
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From: [mailto:]
Sent: 09 January 2013 16:25
To: Enquiry Enquiry (Other Government Departments)
Subject: Pub Co Statutory Regulations

Dear Dr Cable, As a former Executive Director of Breweries with 39 years in the Licensed Trade, now a Consultant, I approve of your actions related to the large Pub Companies however I would make some comments having heard the recent debate and certain elements of hypocrisy.

The creation of these large PubCos was the fault of The Conservatives Beer Orders forcing the sale of thousands of Pubs for no better reason than an a deluded opinion that the Big National Brewers were too big and there was a need for greater choice of draught beers (cask conditioned) which was infact already happening via Guest beer arrangements and a huge choice of bottled beers was already in place.

The Beer Orders (A sledge hammer to crack a nut) so affected the historical link between the Brewer and Tenant that the imbalance resulted in all the National Breweries being acquired or sold off to foreign owners, so that today the UK does not have a single National Brewer under its British ownership. British ownership is now confined to Pubs alone with my old Company operating 100% Directly Managed Pubs Free of Tie.

I can assure you that under the old arrangements which Government ruined we were like Fairy Godmothers to our Tenants. We maintained the structure of Pubs and Tenants only did interior decor. Tied rents were very reasonable fully reflecting the tie and based on fair trade levels and Tied Trade prices were also reasonable unlike the huge differences per barrel that Pub Cos charge their tenants and mainly lessees, (who are on fully repairing terms) and tied for almost everything, which was not the case for the Nationals where our tenants were free for wines and spirits and also minerals.

The PubCos are not Brewers but they buy from various Brewers and suppliers and reinvoice their tenants with a large added premium (as much as £100 per barrel plus) thus hiding behind the tie which was historically correct for the National and Regional Brewers, but as non Brewers the PubCos dont need the tie, and should operate free of tie and adjust to market rents. They borrowed so much to acquire the Pubs that they are stil heavily in debt and have gone OTT with their terms to reduce their borrowings.

Lord Young created this whole problem and a sorry mess and should never have interfered with

the Big Brewers who did a good job and regarded their tenants as part of the family business..

I hope you will not penalise our Regional Brewers like Fullers and Greene King who treat their tenants fairly

but who do own more thsn 500 pubs. Its those big PubCos like Punch and Enterprise who should be tackled.

As to the hypocrisy in debate the Labour Party and yourself should be ashamed of supporting the excise duty escalator that Gordon Brown started with 2% above inflation every year (that Osborne is continuing) as this forced up duty and VAT by over 42% to date and is a major reason for pub closures as the high on trade prices have had to rise and customers are going to Supermarkets to buy dirt cheap beers and community pubs cannot compete.

It is immoral the way Tescos and the like are selling bulk packs at such low and below cost levels and they force the Brewers to give low wholesale prices for big bulk deals. Pubs cannot match this situation and there is as much as a 6 to 1 ratio price difference between On to Off sale prices. When are minimum prices going to be approved or a block on bulk pack deals and a ban on alcohol advertising of cheap offers ?

The Excise Duty escalator must cease asap and you cannot ignore this as it is the real reason for many pubs closing.

which you should not hide behind with this Pub Co regulation.

Sorry this is so long but the truth must out from those of us who really know the Trade.

Regards

████████████████████
Licensed Trade Consultant,
████████████████████
████████████████████
████████████████████

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130 Email to Vince Cable, January 2013

321109

Sent: 09 January 2013 12:05**To:** BIS Central Drafting Unit**Subject:** FW: Debate Wednesday 9 January 2013 - Statutory code of practice for pub companies

Pub Co Line might need updating. Bounce it back if you want this logged as an S/L.

From: (MPST MIN) On Behalf Of Cable MPST Correspondence
Sent: 09 January 2013 10:27**To:** BIS Central Drafting Unit**Subject:** FW: Debate Wednesday 9 January 2013 - Statutory code of practice for pub companies

From: CABLE, Vincent [mailto:vincent.cable.mp@parliament.uk]
Sent: 09 January 2013 09:32**To:** Cable MPST Correspondence**Subject:** FW: Debate Wednesday 9 January 2013 - Statutory code of practice for pub companies

From: [mailto:]
Sent: 08 January 2013 23:50**To:** CABLE, Vincent**Subject:** Debate Wednesday 9 January 2013 - Statutory code of practice for pub companies

Dr Cable

Apologies for repeat e-mail. Pasted contents into Subject.

In your capacity of Secretary of State for Business, Innovation and Skills please advise me if you, or a representative of your department intend to be present for the Statutory code of practice for pub companies debate.

It beggars belief that poor legislation 20 odd years ago that led to the creation of non-brewing Pubcos with 1000's of pubs, whilst limiting the traditional Brewing companies with a stake in how their produce was presented to the consumer to a mere 500. This has prevented a successful local business sector from prospering in a fair trading environment. On who's misguided analysis can this be construed as a successful policy.

The British, and for me, English Pub through legislation has been put in a position where to trade successfully as a business is almost impossible. Even if they do, it is often as a restaurant in a pubs clothing. Many years ago, the Office of Fair Trading in their wisdom decided to limit the beer brewing companies to 500 pubs to limit the influence of the then big 5 nationwide brewing companies.

This however has had a devastating effect on the pub landscape, especially the traditional regional brewers whilst creating these massive Property Management Companies – Pubco's that have no interest in providing a fair environment for pubs to prosper. If there was still a housing boom and the property developers that go with it, they'd sell the whole lot and not give a monkey's about the effect on local communities.

Unfortunately the OFT attempt at creating more choice for the consumer has led to non-

brewing Pubco's to with upwards of 5000 – 6000 pub outlets. How have several governments allowed this situation to continue when it was their bungled legislation, that was made with good intentions, that created such an unfair trading environment. So now we in many cases have NO choice. Please do not reply to me saying that the OFT have carried out a study and the current policy creates the best solution for the consumer. That is simply baloney.

- Non-brewing Pubco's should be forced to sell pubs at a fair price as going concerns, NOT to property developers but as pubs until they are reduced to 1000 outlets over a period of 3 to 5 years.
- Brewing companies should be allowed to increase their portfolio from 500 to 1000 outlets at the same time. Believe me with the two policies in tandem, the Pubco sell offs would be snapped up by brewers and micro-brewers brewing on the premises.
- To bring back some of the beautiful, historic pubs back to life, any building that has been a pub in the last 10 – 20 years should be allowed be returned to their original use has a pub. This would (a) start moving the housing market and (b) get a building being used on the high street or wherever it is situated into use instead of just sitting their empty with a "Offices To Let" sign outside. Also it kick starts local business as they would predominately use local tradesmen.

It needs action now. Pubs are not asking for concessions, they need the false unfair business environment that was created by poor legislation to be made good again.

Regards

P

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131 Email to Vince Cable, January 2013

321223

From: (MPST MIN) On Behalf Of Cable MPST Correspondence
Sent: 10 January 2013 10:17
To: BIS Central Drafting Unit
Subject: FW: Vince cable must see please

From: CABLE, Vincent [mailto:vincent.cable.mp@parliament.uk]
Sent: 10 January 2013 09:44
To: Cable MPST Correspondence
Subject: FW: Vince cable must see please

Regarding Pubcos

From: [mailto:]
Sent: 09 January 2013 23:17
To: CABLE, Vincent
Subject: Vince cable must see please

Dear Mr Cable,

I understand you are very busy but i firstly wanted to commend you upon your work in changing how breweries and pub companies treat their tenants. I have just recently been treated very badly and I am still paying for it. I was offered a pub that was up for sale at a rent of £50 per week, This sounded great and i was also given my first order on a 12 week payback from punch taverns. 2 days after getting the keys, i was struck by appendicitis and was very poorly in hospital for 2 weeks. This led to a very difficult start. It soon turned out that after VAT and licensing charges, I was paying over £100 per week plus my pay back. Business was tough and I struggled.

On one occasion I received an electric shock off the thermostat and informed my area manager that I would like a gas and electrical safety check done for everyone's safety including that of mine and my daughter. My area manager explained that it was the responsibility of punch to have this work done and when I sent another e-mail asking if he could arrange this, i was ignored.

When i struggled with my rent and payback I sent a few texts and e-mails to my area manager asking for him to help, advise or visit me to help sort the problem and not get any worse, he told me he could not come even though i knew he had visited and helped other tenants in the same area. Due to my plea for help being ignored i got further into difficulty. November 2012, I found out that the pub had sold and suddenly panicked that i was losing my livelihood and home so I spoke to the estate agent and he arranged for me to refer documents to the prospective new owner (Lincolnshire co-op ltd) for me to stay on as a tenant with them. 4 weeks passed by and I finally was told that I could remain as a tenant with the co-op and a deal was made.

My area manager at punch was not aware of this deal and although he knew for at least 4 weeks that the pub had sold, He only had the decency to call me 1 week before exchange to tell me i had to move out. I knew I was a tenant at will but i was devastated that he would leave it so late thinking i would be out on the streets when he could of informed me sooner. There was so many things that needed doing but I knew at this point, punch would not do any more work because they did not care any more, only money was their concern.

My plan was that on the day The co-op owned the pub and i was no longer a tenant with punch, I would call them to arrange a payment plan. Yet again to my surprise the last day of ownership with punch, they sent a bailiff to collect £1300 plus £600 costs plus £138 per hour that the bailiff had to wait. Part of the outstanding money had only been invoiced that same day and i had not had a chance to offer payment. I was in tears, i tried to call my area manager but got ignored again and I literally begged the bailiff not to take everything (afterwards i realised the bailiff had shown me a picture of his ID on his phone and i had not seen the warrant so i was a bit silly for not asking him to leave, I was just so scared of losing everything i had worked for),

Finally the bailiff agreed at 4.30pm to take £150 as long as i paid £666 into their account the following day and make arrangements for the rest and he went. I was terrified and angry so I called the regional manager at punch and he agreed to pay the bailiff costs and pull them back if i made an arrangement

01/07/2013

with punch taverns direct. The next day I spoke again to the regional manager at punch taverns and I explained about me getting an electric shock and being ignored when I asked my area manager for help (This is why I got into debt), The area manager basically called me a liar and said they would not reduce my account as I had requested because of the way i had been treated. I have been a tenant with the co-op for about 5 weeks now and I now get my beer from Bateman's but i still feel terrified everyday that Punch will send another bailiff because of the money they say i owe.

It is my belief that they can only send a bailiff for certain things and the fact that my account was rent and products i feel they were wrong to do it at all. Whilst I was their tenant, I now realise i was more benefit to them as I was keeping their pub open and they also made money from the games machines as well as the beer. Also since going through invoices, I have noted that they have charged ridiculous amounts for admin i.e; They were named as the premises license holders yet they billed me for the council change cost of £23 and they also billed me for £50 for the same thing even though i now know it only costs the flat fee of £23.

Punch taverns have made as much money out of me as they can, they have called me a liar, I received an electric shock, they didn't get the window handles changed after i was broken into (the police did nothing either) and I am left paying off a debt for the privalige. I am sure you must get thousands of messages like this but I have been through so much in the past year and if you do anything to put a stop to them treating people like myself (a single mother trying to work hard and make a future for us) and others then I thank you from the bottom of my heart, firstly for noticing what they do and secondly for trying to put a stop to it. Ideally I would like an apology and compensation from Punch taverns for what they did but they seem to get away with everything else so I won't hold my breath but I will continue to work hard and fight to hold on to this place I've put so much into. Thank you for your time and any help you give me with this matter.

Kind regards and best wishes,

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132 Email to Vince Cable, January 2013

321628

From: BIS Central Drafting Unit
Sent: 14 January 2013 14:22
To: (MPST MIN)
Subject: FW: Pub industry adjudicator

Please log as treat official standard line PUBCO – 30B46

From: Enquiry Enquiry (Other Government Departments)
Sent: 11 January 2013 10:19
To: BIS Central Drafting Unit
Subject: FW: Pub industry adjudicator

Dear Colleague,

Is this something you can help with?

If you are able to answer this enquiry please reply to the enquirer directly, if this enquiry is not for you to answer please reply to the enquiry email address letting us know.

thanks,

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From: [REDACTED]
Sent: 10 January 2013 19:55
To: Enquiry Enquiry (Other Government Departments)
Subject: Fw: Pub industry adjudicator

<http://www.bbc.co.uk/news/business-20950629>
<https://www.gov.uk/government/news/press-release-new-proposals-to-stand-up-for-british-pubs-and-prevent-unfair-practices>

To The Rt Hon Dr Vince Cable MP

From

01/07/2013

[REDACTED]
[REDACTED]

Dear sir.

We are a lease hold pub and we are tied to punch taverns PLC.

We have had our pub for 11 years now.

IF you need evidence of how these pubco,s are destroying my industry then please come and look at our books.

we have nothing to hide. we exist by putting our own money in to pay bills.

We always were led to believe that anti competitive activities and monopolies were illegal in this country.

Yet we see pubco's monopolizing the pub trade for so long now with successive governments promising to act but nothing is ever done.

How can they take so much and still owe billions?

Now we have **Toby Perkins MP, Labour's Shadow Pubs Minister**,bleating about what he will do, How many years did Labour have the opportunity to do something? and his predecessor did less than nothing.

Our offer is open to you and thank you IF you urgent intentions are genuine.

Regards!

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133 Email to BIS, January 2013

321631

From: BIS Central Drafting Unit
Sent: 14 January 2013 15:06
To: (MPST MIN)
Subject: FW: Pubs closure

Please log as a treat official Pubco Standard line – 30B46

Thank you

From: Enquiry Enquiry (Other Government Departments)
Sent: 14 January 2013 09:40
To: BIS Central Drafting Unit
Subject: FW: Pubs closure

Dear Colleague,

Is this something you can help with?

If you are able to answer this enquiry please reply to the enquirer directly, if this enquiry is not for you to answer please reply to the enquiry email address letting us know.

Many thanks,

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From: {
Sent: 11 January 2013 17:09
To: Enquiry Enquiry (Other Government Departments)
Subject: Pubs closure

Hi

I read the article in the Guardian and the Sun regarding the tactics of Pub Landlords.

I am one of them. I had to let go my tenancy as i was getting more and more in debts.

I was hoping that things were going to get better but it did not happen.

After over 6 years I gave back my Pub to Spirit Lease. I am now facing a future with no job and a lots of debts.

Spirit Lease give the Pubs to an other company at a smaller rent and better deal on the drinks.

It really make me mads

I would like you to pass my thanks to the Business Secretary who is trying to impose a code of conduct. I know its too late for me

01/07/2013

but i am sure it will help others in the years to come.

Thanks very much.

[REDACTED]

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134 Email to Vince Cable, January 2013

321633

From: BIS Central Drafting Unit
Sent: 14 January 2013 15:10
To: RMPST MIN)
Subject: RE: information on pubco's

Please log as treat official standard line Pubco 30B46

Thanks

-----Original Message-----

From: Enquiry Enquiry (Other Government Departments)
Sent: 14 January 2013 09:54
To: BIS Central Drafting Unit
Subject: FW: information on pubco's

Dear Colleague,

Is this something you can help with?

If you are able to answer this enquiry please reply to the enquirer directly, if this enquiry is not for you to answer please reply to the enquiry email address letting us know.

Many thanks,

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-----Original Message-----

From: e-mail
Sent: 11 January 2013 21:47
To: Enquiry Enquiry (Other Government Departments)
Subject: information on pubco's

hello mr cable, my name is _____ and i am currently a tenant with my fiance in a greene king pub in derbyshire. this is our first pub and probably our last if something isnt done quickly i am writing to you to inform you of what the brewery is doing to our business.

we are currently having to sell back our fixture and fittings due to a rise in our beer last april/may (just before the budget) this has put a massive strain on us as our margins are getting smaller and smaller. the brewery says its because our wages were to high but we know its because of the rise in our beer prices.

the other pubs in the village are all free houses and we cannot compete with them. this does'nt make any difference to the brewery as they will do nothing about our prices.

we have been here now for 2 and a half years and this is supposed to be where we make money which is not the case we have to pay our vat in installments as we cannot afford to pay it all in one go.

as i said we have now got to sell back our f&f as we were in debt.

we pay for maintenance which takes months to be authorised the outside of the building is in need of money being spent which we know will never happen yet they spend money on pubs which are not doing well.

if you could find a little time to send me an email stating what is going to be done i would appreciate it.

you can contact me by email or by phone. thank you

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135 Email to Jo Swinson, February 2013

326891
013/755355

For a Department response – not a constituent of Jo's.

Office of Jo Swinson MP

From: [REDACTED]
Sent: 12 February 2013 17:01
To: SWINSON, Jo
Subject: New PubCo Statutory Code

Dear Ms Swinson

I read with interest your feature in the Morning Advertiser about the speedy progress being with the new statutory code for PubCos, and certainly hope that is the case. However, before various parties get too carried away, I'm afraid there is still one area that you did mention in your interview, but will leave a fatal flaw in the proposals.

Essentially, the new statutory code for the PubCos will only legislate against those with 500 or more tied or tenanted pubs. I am a tenant of Trust Inns and although they profess to having around 600 pubs, their managed operations mean that they will certainly have less than 500 tenanted outlets and consequently fall outside of the new legislation. Believe me, just because they aren't a Punch or an Enterprise doesn't mean that they don't charge excessive rents and exorbitant prices for their beer! Also if the new code is introduced with a 500 or more threshold Punch et al will simply break up their operations into smaller, unrelated entities to fall outside of the new legislation. Surely any legislation must be uniform across the whole industry regardless of their size?

Many thanks for reading this e-mail. I'm happy to provide more information about my circumstances should you require it, and I hope you are successful in the valuable role you play for pubs as a whole.

Good luck and kind regards

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**136 Email to Vince Cable of one sent to
Greg Mulholland, January 2013**

Q131755420
326437

From: BIS Central Drafting Unit
Sent: 30 January 2013 16:15
To: BIS Central Drafting Unit
Subject: FW: Pubco behaviour - Copy of letter first sent to Greg Mullhoiland (MP LibDem)

Attachments: No future for pubcos Jan 2013.pdf
Please log as TO Bespoke - Pub companies - Swinson - and assign to Iain Mansfield of CCP.

From: BIS Central Drafting Unit
Sent: 30 January 2013 14:30
To: BIS Central Drafting Unit
Subject: FW: Pubco behaviour - Copy of letter first sent to Greg Mullhoiland (MP LibDem)

CCP?

From: (MPST MIN) On Behalf Of Cable MPST Correspondence
Sent: 24 January 2013 17:13
To: BIS Central Drafting Unit
Subject: FW: Pubco behaviour - Copy of letter first sent to Greg Mullhoiland (MP LibDem)

From: CABLE, Vincent [mailto:vincent.cable.mp@parliament.uk]
Sent: 24 January 2013 16:57
To: Cable MPST Correspondence
Subject: FW: Pubco behaviour - Copy of letter first sent to Greg Mullhoiland (MP LibDem)

From: [REDACTED]
Sent: 24 January 2013 13:11
To: CABLE, Vincent
Subject: FW: Pubco behaviour - Copy of letter first sent to Greg Mullhoiland (MP LibDem)

23rd jan 2013

Dear Sir,

Firstly please excuse the bold and underlining. (knowing how swamped you are, I thought it might help)

I have attached a paper by Brian Jacobs who, as you may know, is the founding father of the whole tie abolition movement, having given evidence on behalf of the FSB against pubcos in 2004.

With his fifty-five years in the industry and as a certified accountant, this paper makes for essential reading. We have sent this to you, as you are well placed to understand the opportunity that the Government now has to end the whole debacle.

Also, consider the **unemployment and rehousing implications..**

If pubcos are wound up, then pubs will be saved (and there are thousands of people out there looking to buy freehouses). **Pubcos are simply NOT too big to fail.** Don't even consider that argument! **The real danger is if they DON'T fail.**

If (at least the two big) pubcos are NOT wound up,

Its the continuing **slow demise of the 10,000 pubs** that Enterprise and Punch own, as lessee/publicans cannot borrow to develop their leased pubs AND **these pubs employ about 100,000 - 150,000 people** and, as pubs, they also provide **accommodation for 10,000 families** who, most having lost any life savings they might have, **would need to be re-housed by the State if the pubs closed.** Double this for the whole countryside leased pubco sector.

If the pubcos DO go,

Only about 600 people at Enterprise Inns and Punch Taverns would lose their jobs.

Its also worth pointing out that where pubcos have disposed of "unviable" pubs, these pubs often go on to become very successful as freehouses and, often by the same licensees. It is hard to imagine how the leased pubco (non brewer, non managing) model can survive as it is..

The prime principal **MUST** be obeyed and the most transparent way to achieve this is by

- **Allowing only brewers (with under 500 pubs – which is the safety net for all the family brewers) to apply the tie and then only to tie to products that they actually produce.**

OR

- **Even a one ale/one lager guest provision would probably be enough to topple the big two – such is their fragility.**

There is no longer room for a middleman between the brewer and the licensee.

Good luck,

■ (London publican of 28 years –

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137 Email to BIS with an invitation to a meeting, January 2013

From: BIS Central Drafting Unit
Sent: 23 January 2013 12:27
To: BIS Central Drafting Unit
Subject: FW: Enterprise Inns (Pubco) Proof of Malpractice, Negligence and Potentially Illegal Business Practices

Attachments: Letter PDF.pdf; img002.jpg; img004.jpg; img006.jpg; img007.jpg; img010.jpg; Jazz letter report.doc; Enterprise Proposal (Second Edition).pdf; Music Leisure P&L Up to 31.12.12.pdf; Enterprise Accounts (Break Down).pdf; PICT1167.JPG; PICT1168.JPG; PICT1171.JPG; PICT1172.JPG

Please log as TOSL 30B Pubco - Swinson - and assign to CDU1.

NB We will need to say ~~we~~ is not able to intervene in individual disputes of this nature.

-

From: Enquiry Enquiry (Other Government Departments)
Sent: 21 January 2013 10:08
To: BIS Central Drafting Unit
Subject: FW: Enterprise Inns (Pubco) Proof of Malpractice, Negligence and Potentially Illegal Business Practices

Dear Colleague,

Is this of any interest to BIS?


Kind regards,



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From: 
Sent: 10 January 2013 19:00
To: Enquiry Enquiry (Other Government Departments)
Subject: Enterprise Inns (Pubco) Proof of Malpractice, Negligence and Potentially Illegal Business Practices

Dear Sir/Madam,

Re: Enterprise Inns Plc. Proof of Malpractice, Negligence and Potentially Illegal Business Practices.

I would cordially wish to invite you to a meeting between myself (representing Music Leisure Limited) and Enterprise Inns Plc in regard to the serious mistreatment of Enterprise Inns leased pub tenants.

I appreciate the offer will be unexpected, is short notice and potentially of little interest, we have

taken it upon ourselves to contact any and all parties with interest, influence or support for the tied public house licensee. I urge you, please, to read on.

The meeting is to be held at our leased pub [REDACTED] at on Thursday the 24th January 2013 at 10:30AM.

Enclosed is evidence of our regrettable misfortune with this company, I have included in the footnote a brief explanation of the evidence, I hope this information will furnish you with adequate knowledge of our situation and the responses of Enterprise Inns to date. Regrettably I can not forward the evidence in its entirety by have attempted to include particularly relevant documents. I am more than happy to be contacted for any further evidence or answer any questions at any time.

At this meeting it is likely that Enterprise Inns will attempt to bankrupt me, my family and close our business due to the misrepresentations they made in regard to our premises, in writing, prior to our assigning of the lease.

We have spent thousands repairing the site that was promised in good 'operating' condition, the pub is still largely closed off due to these dilapidations and consequently lost very significant trade we had every right to expect. Enterprise has forced us to complete dilapidations, including statutory work for the site which should have been in place, as advised in writing. The site is still dilapidated, regrettably our saloon bar has not ever operated.

I can not easily close the pub, my fathers is acting guarantor (his home). I can not sue, despite my threats to do so, as I have no funds at my disposal.

The company presently have £2000 in the bank, our overheads are £5000 per week, we are seasonal and it is January. Our winter budget is long gone.

I entirely appreciate the meeting is on short notice and it would be extremely unlikely you would be able to attend, however I feel it would be extremely beneficial to us, our employees, and licensees across the country if you were there. We can offer no recompense for the time or journey but you will be warmly welcomed by the company and our staff.

Thanking you for your time in advance and with the utmost gratitude.

Warmest wishes

ATTACHMENTS:

Letter PDF: A copy of the initial complaint forwarded to Enterprise Inns, a response has been promised on numerous occasions in writing, none has yet been received. Directly following this letter the building was declared unsafe by a surveyor, the building was closed for a week to complete remedial work.

Img002: A scanned copy of the Enterprise CoP 2008 - Assigning.

Img004: A scanned copy of our initial offer, note box 'Property' the Enterprise BDM has noted we

requested a survey as the premises was dilapidated, we evidently needed the work identified and completed.

Img006: A scanned copy of the letter from Enterprise Legal Department, Section 5, clearly states a 'full' site survey 'must' be completed and 'signed off' 'before' the premises is assigned. No 'full survey' was completed, the outgoing tenant or their solicitor have never had site of any survey or requested to complete any dilapidations. As a result of this, they were certainly not ever 'signed off'. Enterprise have issued us with a survey following our letter of complaint, it is not a full survey, it merely represents that one wall in the managers accommodation needs painting and the pub needed all statutory paperwork. Enterprise were not aware when they 'found' this missing file that i) we had photography of ALL dilapidations ii) we had a survey highlighting failed lintels and iii) that the former tenants solicitor would evidence no survey had ever been issued. The 'new' survey had its date marks actively removed from the file (thus may have been created at any time), has never been seen by any party, and of the token works identified, none had ever been completed.

Img007: A copy of an email from an Enterprise representative proving that no statutory certification is present or ever has been.

Img010: An email to Chrsities, the former tenants agent, clarifying that all dilapidations identified by Enterprise must be completed before assigning the property. This was forwarded by the firm to Enterprise BDM David Eldon, we have an email receipt.

Jazz letter report: A brief over view of a surveyors report, which includes, visual failed lintels.

Enterprise Proposal (second edition): Our present proposal to Enterprise Inns.

Music Leisure P&L Up to 31.12.12: Our latest accounts since we began the process.

Enterprise Accounts (Break Down): Our accounts to since assigning the property.

PICT's: Photographs taken of site, a collection of many, limited by email capacity.

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138 Email to Jo Swinson, February 2013

013/755569

326727

Office of Jo Swinson MP

-----Original Message-----

From: [REDACTED]
Sent: 04 February 2013 18:57
To: SWINSON, Jo
Subject: Statutory code for pub companies

Dear Ms Swinson,

My thanks to you and Dr Cable for pursuing the issue of a statutory code for pub companies.

As an owner of four licensed premises I've experience of both free of tie premises, and those with tied agreements with Enterprise Inns, Fullers and Greene King - all within a small area. Therefore, I am well aware of the difficulties of operating a sustainable business within the tie, and the higher rents and wholesale prices compared to a free site.

However, I write to query the thinking behind only extending any reforms to the six biggest companies - and not including the so called 'family' brewers.

At one property, as a tenant of Enterprise Inns my staff, customers and I have suffered the difficulties brought on by the tie. Driving up prices, and curtailing our abilities to compete. However, when this pub's freehold was bought from Enterprise by Fullers last year, we expected the worst was over, under the better management of a 'family' brewer (which would under your proposals not be included in the reforms). Unfortunately, this has not been the case and Fullers are equal to Enterprise in their approach. That is a high rent, and wholesale prices 45 percent above the open market. As the owner of the freehouse across the street, I can attest to this.

Your help in answering this question would be very much appreciated.

Yours sin

Owners,

Sent using BlackBerry® from Orange

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139 Email to Jo Swinson and others, February 2013

d 131735783

327482

Regrettably I had an incorrect address. I hope this now reaches you.

Regards

[REDACTED]

Contact add.

[REDACTED]

Fax no:

mobile:

Email: [REDACTED]

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From: [REDACTED]

To: swinsonj@parliament.gov.uk; mulhollandg@parliament.uk; brian.binley.mp@parliament.uk; baileya@parliament.uk; biscom@parliament.uk

Subject: Review of tied pubs

Date: Tue, 19 Feb 2013 13:57:11 +0000

Good Afternoon,

I understand you are the lady gathering submissions relating to tied pubs.

Just as a background for your information I have been involved, see Appendix 17, with these issues since the Agriculture Committee reviewed issues back in March 1993. That was followed by a joint approach by John Tracy Kelly, Barrister, [now retired] and the FSB which resulted in the 2004 TISC and contains my submission in Appendix 17 page Ev 178-Ev188. Following the failure of pubcos to do anything, [REDACTED]

[REDACTED] We were instrumental in getting the BESC 2009 and 2010 under way. If you look at the BESC 7th Report 2008-2009 Volume II pages EV 47-52 you will see a copy of my submission.

So this now brings you up to date with my interest in the issues which now span three decades and I am still battling on with the same prime principle issue.

My submission to the latest review body is as follows:

Just what is BISC or the Government trying to achieve relative to tied pubs? Surely the main objectives should be to:

1. Ensure a level playing field for tied tenants and untied tenants alike by ensuring that the tied tenant is not worse off financially than if they were free of tie thus creating the initial platform for fair competition.
2. To ensure that the consumer has a choice of products
3. To ensure that the consumer is charged a fair price for the products of their choice
4. To ensure that the landlord adjusts their rent to allow any pub tenant[s], tied or untied, to

have a reasonable living.

5. Lease terms and the terms of the relationship with the tenant are clearly set out between the parties.

These all seem reasonable objectives and the TISC report of 2004 set out recommendations which would effectively achieve them. Pubcos and brewers chose to ignore all of the 2004 TISC recommendations which resulted in the BISC even more extensive review of 2009-2010 eventually culminating in additional recommendations.

Neither the Government the BBPA or the Pubcos accepted or enforced these any of those recommendations. The route to improvement was left open by assuming that the BBPS, Pubcos and even RICS would between them hammer out an overall deal which would go towards satisfying those main objectives outlined above.

Let us all be clear, for the landlord to prove that the tied tenant that would not be in a worse financial position than if they were free of tie is at the very core of the business relationship and is the prime principle of the relationship. If that principle is not proven from the outset then the tenant is certain to be at a trading disadvantage and on the route to financial disaster and potentially bankruptcy and all other issues pale into insignificance.

Once the prime principle is proven to have been observed all the other matters are destined to be resolved. It should be noted that TISC in 2004 identified that transparency in the form of whole detail with the profit assessment being generated in accordance with accounting standards was a major step towards satisfying the prime principle.

Shortly after the 2009 BISC report RICS, having taken legal advice, issued a public statement that they accepted that the prime principle should be observed and furthermore identified that they had always stood behind that principle. Tragically in spite of various RICS committees seeking to define guidance for their members, they failed dismally to get the wording across. Evidently many members of those committees recognised that having failed to observe the prime principle in the past concordance, and recital, of the prime principle in new guidance notes could put their members at financial risk. Consequently the guidance notes issued did not include the essential wording requiring valuers to prove that "the tied tenant would not be worse off financially than if they were free of tie". Regrettably RICS have never attempted to enforce their stated support of the prime principle and have specifically avoided disciplining any valuer that chose to ignore that prime principle.

I have said it before but it is quite straightforward for the existing profit assessments and rental computations to be adjusted to prove the prime principle. Essentially the discounts available in the open market need to be separately identified and included in the profit assessment and a percentage applied to define what the free of tie rent would be and the earnings for the tenant were they to be free of tie. If that profit is insufficient to ensure that the tenant has a liveable income, proof required, then the rent would be reduced accordingly to give a lower free of tie rent. From that calculation of a free of tie rent should be deducted the exact equal of the discounts available in the open market, thus arriving at the tied rent.

Ultimately the problem will always be whether the Government could pass a statutory instrument that would enforce that prime principle. The impact of enforcing the prime principle on pubcos who have expanded and borrowed on the basis that they have always ignored the prime principle will undoubtedly worry MPS and members of BISC. What has been recognised is that the result of enforcing the prime principle would have exactly the same effect than if the government freed all

the pubs of any tie restrictions.

Clearly the sheer thought that righting a very substantial wrongdoing, by enforcing the prime principle or releasing all the pubs from a supply tie, could bring those pubcos to extinction terrifies them. The natural course of these bodies is to keep the chatter going as long as possible and ensuring that any legislation that surfaces has sufficient holes or gaps that will allow the Pubco and BBPA lawyers months or years of litigation to quell the impact. As they say the devil is always in the small print.

The question now is whether any of the members have the guts to get that prime principle onto the statute book, after all the Government many years ago supported it but never legislated.

Regards

Contact address: [REDACTED]
Telephone no: [REDACTED]
Fax no: [REDACTED]
mobile: [REDACTED]
Email: [REDACTED]

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140 Email to Vince Cable, January 2013

013 | 755686 323753

From: BIS Central Drafting Unit
Sent: 24 January 2013 15:00
To: BIS Central Drafting Unit
Subject: FW: Pub Companies - Government Reforms
 Please log as TO Standard Line - 30B46 Pub Companies - Swinson - and assign to CDU1.

From: Enquiry Enquiry (Other Government Departments)
Sent: 24 January 2013 13:03
To: BIS Central Drafting Unit
Subject: FW: Pub Companies - Government Reforms

Dear Colleague,

Is this something you can help with?

If you are able to answer this enquiry please reply to the enquirer directly, if this enquiry is not for you to answer please reply to the enquiry email address letting us know.

Many thanks,

BIS Communications Directorate Enquiry Unit | Department for Business, Innovation & Skills | enquiries@bis.gsi.gov.uk | T:+44 (0)20 7215 5000 | F:+44(0)20 7215 0105 | www.bis.gov.uk | Blog: blogs.bis.gov.uk | Twitter: @bisgovuk

The Department for Business, Innovation & Skills (BIS) is making a difference by supporting sustained growth and higher skills across the economy.

BIS: working together for growth

From: [REDACTED]
Sent: 24 January 2013 11:13
To: [REDACTED] Enquiry Enquiry (Other Government Departments)
Subject: Pub Companies - Government Reforms

Dear [REDACTED] / Dr Cable

It was with great interest and relief, (by millions I would imagine), to read the recent comments by Dr Vince Cable on his planned reforms to ensure that the "greedy" 'Pub Companies' such as Enterprise Inns and Punch Taverns refrain from continuous exploitation of their tenants.

The question I think the majority of citizens, and more importantly affected landlords, and their staff would like to know is what "deadline" date has Dr Cable set for this to be in force? We have to remember that these companies (if that's what we are allowed to refer to them as, even though they don't trade within the normal 'fair trade' and 'freedom of trade' principles that many other company directors would recognise and be held accountable for if they did such practices), have had more than a generous and lenient amount of time albeit FAILED to self regulate.

Is there any interim help the government can supply or assist in negotiations?

As Dr Cable, and supporting bodies such as Greg Mulholland, chair of the all-party Parliamentary Save the Pub Group, CAMRA and 1000's of landlords, are rightly appalled by is that these "Pub Companies" not only tie publicans into unfair restrictions on purchasing beers, wines, spirits etc, from themselves ONLY at more than 50% above market rates but also force excessive rental premiums.

Does Dr Cable also realise that the above restrictions and the excessive charges are also accompanied by further unscrupulous practices by way:

- Forcing publicans into accepting inflated insurance policies, (nearly 100% more than market rate i believe), organised by the "Pub Companies" whom i would imagine receive a hefty commission payment.
- Forcing publicans to use "Pub Companies" chosen accountants with inflated charges.
- Forcing publicans to carry out regulatory electrical/gas and utilities test using "Pub Companies" chosen testers, again with an inflated price; whereby experienced publicans should be able to use correctly qualified independent engineers whom they have used in the past, fully compliant and certified, when they were not under the "Pub Companies" illegitimate "ties and monopolising contracts". (This is not about getting the testing done, it is purely about who they are forced into using !).

The above are not all the ties or costs being forced on publicans, however the is just a small part of the behaviours / greedy tactics that these companies are using.

Do you feel that this falls under or can be rightly classed as "fair trade" and are allowing publicans the ability to "trade freely" ?

I, nor publicans, directors and local residents etc I have spoken to can identify any other business, company or trade organisation in the UK or even EU who would be allowed to trade or carry out business in this way in the 21st century, by carrying out a monopoly !!

One example, to which supporting evidence is available is one of my local pubs. Let me give a brief summary on the serious problems they are facing:

The [REDACTED] has been under the same family ownership for over 30 years and it has a fantastic reputation of being a safe, caring, trouble free well run establishment. It continues to support the local residents, communities and charities, by way of donations, sponsorships, collections and general assistance were possible. It is also an employer to a number of local residents who rely on this income.

It was recently brought to mine and local residents attention that this pub is struggling purely due to recent changes in the contract forced on them by Enterprise Inns, involving unfair restrictions on trade, unsustainable rental charges and unethical practices.

The publican, [REDACTED] (who would welcome any assistance), has attempted to negotiate with them, albeit all to no avail as it seems that they will not change their practices and they blatantly are forcing a contract that is purely untenable and results in an unviable business.

Isn't this therefore a prime example of the companies in question blatantly ignoring and miserably failing in the "self regulation" that they were supposed to be administering ?

It seems therefore that the only option is to relinquish the pub back to Enterprise Inns to allow them to either seek a replacement publican or close down the premises.

This will therefore unfortunately, and very much regrettable on [REDACTED] behalf, result in job losses, community and charity losses, and the loss of a trouble free, safe socialising hostelry.

Obviously if the former is chosen then if the present publican, with a vast amount of experience in this establishment, cannot sustain the business, then what chance does the newly recruited publican have ?

This clearly just supports the comments made around the "short term profit focus" that they are following ? (Bearing in mind they will expect a new publican to inject a substantial amount of cash into the "lease", unbeknown to them they will be in the same position in the not too distant future, with the "vultures" ready to pounce !)

Should the latter be the option then, firstly and foremost, why have Enterprise Inns allowed job losses to incur through pure greed ? Is this corporate responsibility that government promotes ?

Secondly this then could, and more than likely would, have a negative impact on the local community by way of resulting in losses to local charities and residents and, if similar to other public house closures result in a drain to emergency resources whilst dealing with damage, vandalism, fire, danger and thus turning into an assembly point for troublesome gangs.

I would welcome your comments and thoughts, and more importantly any support you can give to this battle against the "bullies".

On behalf of numerous local residents of

Regards

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141 Email to Vince Cable, January 2013

d 13 | 755674

325657

From: Enquiry Enquiry (Other Government Departments)
Sent: 31 January 2013 16:19
To: BIS Central Drafting Unit
Subject: FW: FAO. Vince Cable MP. CONFIDENTIAL please :-)

Dear Colleague,

Is this of any interest to Dr Cable?

Kind regards,

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From: _____
Sent: 31 January 2013 15:38
To: Enquiry Enquiry (Other Government Departments)
Subject: FAO. Vince Cable MP. CONFIDENTIAL please :-)

Pubco/Brewery Statutory Code of Conduct - an honest view... from the receiving end!

Dear Mr Cable

I am a Shepherd Neame tenant - NOT a disgruntled tenant it should be said - as I actually have a very good relationship with Sheps, and I think the company and people are excellent.

HOWEVER there are some simple facts about the traditional tenancy model that they - and many others - use, that make it almost impossible to succeed as a tenant in today's environment!

As you will know the basic tenancy structure is...

1. You are able to enter the trade for a smaller outlay (usually £20-£50k), much less than you would need to purchase a lease or freehold.
2. You pay a (usually higher) rent for the privilege.
3. You are on a 'Full Wet' tie, meaning *all* purchases of beer, spirits and soft drinks must come from the Brewery.
4. You pay for the above purchases at the rates on the 'Tenants Price List'.

The above doesn't sound too unreasonable, in that the lower ingoing cost is good, and paying a *slightly* higher rent is thus perhaps understandable... to a point.

Even the 'Tie' - which so many Publicans complain about - isn't *such* a problem if you are a tenant of a brewery that makes fine beer, sources good wine, and supplies a large range of products, as Sheps indeed do.

The 'Tenants Price List' however is another story entirely! My son in law who owns a Free House (no tie) in Canterbury can buy Sheps basic 'Master Brew' Bitter for £56 a Firkin... yet as a tenant I have to pay £93!!!

Yes 65% more!!! :-0 and that's the norm, *not* an exception! :-0

What kind of business could possibly succeed when it *has* to buy all of it's supplies at grossly inflated prices? Is this even legal under current legislation regarding competition, fair trade & Price Fixing???

So, what - you may ask - happens, if - despite this serious disadvantage - a tenancy does *really* well, sells *loads* of beer, and is a roaring success? Do huge discounts then come in to play???

What happens is that the inflated prices remain *unchanged*... and the rent goes UP ...and UP! :-0

The fact that Pubcos and Breweries large AND small (a tenant of a Brewery with 30 Pubs needs the same protection as one with a big Pubco) see the above as an acceptable way to do business ("because it's always been that way") means that they will *never* 'self regulate'.

Yet if they are forced to sell their product to tenants at *competitive* prices, their own turnover will actually *increase*, yes *INCREASE*, as the *thousands* of tenants (myself *not* included!) who break their tenancy agreement and 'buy out' of tie as "the only way to survive", would instead buy *all* of their supplies from them!

This is the reason you *must* make the statutory code 'Break the Mould' of this outdated, ant-competitive model, and replace it with a set of Strong, Robust, Fair, and Easily Enforceable rules that *must* be obeyed!

If you don't act *now* the Independent Pub industry in the UK will all but disappear, costing thousands of jobs and livelihoods, and the only Pubs you *do* see will be chains... like Starbucks for Beer! :-/

All Pub tenants in the UK are relying on you, please don't let us down!

Thankyou for your support.

Kind Regards

~~_____~~

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142 Email to Vince Cable, February 2013

J13/755890

327850

From: [REDACTED]
To: cablev@parliament.uk
Subject: Help & Advise / [REDACTED]
Date: Wed, 20 Feb 2013 18:26:s/ +0000

(Enterprise Inns)

Dear Mr Vince Cable MP,
I am writing, to for help and advice. You were recommended as the person to contact

My name is [REDACTED]

Tele : [REDACTED]

- I have lived and run the [REDACTED] for 13 years I have no problems until they decided they wanted to sell the property back in June 2010, they asked if I would like to buy and I accepted their offer. I put an offer in which had been accepted, then they withdrew it from the market and said it was not for sale.

It was after this they started making it so difficult to run stopping and starting my orders of stock saying they would give me it with discounted as to keep the same as the other pubs in the area but.

To still keep running the pub and to keep my customers I have had to at time had with no choice but to order stock from other suppliers, this they do not like, which I totally understand but they have left me know alternative, causing me to fall in to debt in the last three years of no help, not being able to get them to respond, even to the fact that they have sent a debt collector in for unpaid rent.

Who have confirmed I did not owe what they say, but still leaving me with this over my head and having to pay them over four hundred pound, because they came out.

I feel as if they are doing everything in their power to push me out of my home.

I am in court on the 9th May 2013, with Enterprise Inns for repression with a £5000 debt which I am paying off and am doing everything I can, to clear it before then, when I do see them they just keep saying you cannot win and the law is on their side they also have put in for £33,000.00 compensation claim because I have had to buy my stock at time from other suppliers but this is totally unfair and unjust.

I do understand that it is a broken contract from both sides but I am finding that I am being pushed from all corners, And have no were to turn, so I am looking to you for help support and advise, as I feel totally on my own against them all.

Thank you
Kind Regards

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143 Email to Jo Swinson, February 2013

329613

From: [REDACTED]
Sent: 18 February 2013 16:54
To: MULHOLLAND, Greg
Cc: SWINSON, Jo; [REDACTED]
Subject: FW: Pubs in peril

Dear Ms Swinson,

Although much the same in content as this email, please see my last submission to the Select Committee - attached

From speaking with Greg Mulholland and [REDACTED] last week and also, reading in the PMA, I am encouraged - as a long-standing (28 years) Inntrepreneur/Unique and now Enterprise lessee - to drop you this quick round-up.

I am known as the first pub licensee to raise his head above the parapet (against the pubcos) when, in 2004, I founded [REDACTED] which later morphed into [REDACTED]. The result was that my pub (coincidentally?) burnt down a few weeks later.

In 1985 we took on a tied pub as tenants. We did well, and in 1986 were converted by Watneys, to a turnover lease – the more trade, the more rent. Actually this was totally transparent and got us through Gulf War 1 when not a soul was on the streets.

In 1992, we went over to a new style, 20 year lease – 20 year leases were unheard of and ostensibly offered the family (in our innocence) better security. This was a seamless transition and, for the first ten years it went entirely as per the terms of the lease until 2002 - *During this period we offered (in 95) the first UK cybercafe in a pub (and one of the first ten cybercafes in the world) and the first web access in UK hotel rooms (in 96)*

In 2002, they (Unique in those days) rentalised us (at rent review) on the hotel that we had created upstairs. By this point the whole equation had changed. In the early 1990s, the rent guidelines of a turnover lease were typically "between 8-12%" on food and drink turnover. Pub companies today are openly pushing 15-20% (a major factor in pubs failures). There were also some appalling conflicts of interest involving the pub companies, RICS and the leading surveyors, who were prepared to give false valuations on the big estate pubs based on both the property rent (known as "dry" rent) and the inflated cost of the tie (aka the "wet" rent).

At this point the head of the pub valuation panel [REDACTED] was also the head of Enterprise's rents department (and known as the "rent boy"!) - he was forced to step down from his RICS role when asked to give evidence to the Select Committee in Dec 2008. All the pub surveying work came from the big pub estates and so it was very difficult to get an unbiased valuation. This situation still continues today because RICS simply won't go along with the prime principal (that a tied leaseholder should be no worse off than if they were free of tie) otherwise they would outlaw the inclusion of intangible assets. This situation is alive and well today, while Government is simply looking the other way (at codes of practice). Be aware, of course that the BBPA is directly funded by the pubcos.

So long as these two fundamentals – wet and dry rent – exist, then there simply can be NO transparency and no matter how you dress it up, codes of practise simply will not work while the pubco securitisation model is in the mix. Its like herding cats – and the cats are pretty hungry

(because of their debt level). [REDACTED] calculated that the pubcos' debt is costing £1/2billion a year and most of it going overseas. He also declared the pubco model dead about 5 years ago.

In the old days, the beer tie was a benign instrument and for the brewery-tied tenancies, mostly still is. Also, when you manage a pub (on behalf of a brewer) then, only reasonably, you are expected to buy their products – real ale has the shelf life of fresh orange juice.

This is NOT what's at stake here and do not be sidelined by the larger brewers who have effectively grown into pub companies (ie. have tied leased pubs as well as managed houses and tenancies).

The tie must therefore be removed , but ONLY for

1. **Any pubs that are not DIRECTLY owned by a brewer.** The original (1989) limit set by Government was on estates of 2000 pubs. The largest "Family Brewer" today is Thwaites with 400 + and so a limit of 500 has been reasonably suggested. There has been much talk of brewers and pubcos breaking up into companies of no more than 500, but that is immediately transparent and could easily be thwarted.
2. **All products that are NOT directly produced by these brewers.** A good example of a seemingly innocent operation is "Brakspears" (pub estate). It has no brewery any more (the building was sold to Hotel Du Vin), its brand is now brewed by Marstons and it simply became a pub company - under the stewardship of Mike Foster, the ex MD of Inntrepreneur. Although there are only 108 pubs (or thereabouts), they are all tied and the new buyers, having paid over £100 million for the lot (back in the "heady" days and encouraged by the pub-killing, securitisation model), must get - at a 5% return – £50,000 a year out of every single (often small country) pub. The result is that these pubs are being squeezed so hard, that life has become, for many, a living hell. Enterprise Inns (ETI) is the same, only 30 –40 times scaled up. It paid way too much for its pubs (through false valuations on the back of securitisation) and all we (licensees) are now doing is servicing their appalling debt level.

Maybe 30-40% (some say 50) of ETI's revenue comes from its wet rent. Do not be alarmed, or feel guilty, about the prospect of these greedy speculators going out of business if the (pubco) tie were to go. Don't even think about shareholders. They simply made a bad call – and they had ample warning - and anyway this is already reflected in the share prices.

The only people that benefit from the pubcos' existence are those on their relatively small payrolls. Enterprise has only 500 staff but in their pub estate there are probably 80-100,000 leaseholders (often aided by their families) and staff whose livelihoods are being threatened. Without action (as defined below), it can only get worse - and don't forget, **pubs are also family homes**

What the Government also has to head off at the pass, is the prospect of the pub companies collapsing anyway. The worse thing that could happen is if pubs were to be picked up by (more of the same) vulture capitalists, then the status quo could simply roll on in another guise, leading to a crisis from which no one could recover. Either way, the pubcos have no money to seriously invest in their pubs and we aren't making enough to invest because of the beer tie and we can't borrow because we don't own the freehold. Catch 22.

Most of ETI's bondholders are offshore and the biggest is New York's "Master of the universe" David Einhorn with – some say 40-50%. A "property play" he called it in an email to Fair Pint's Karl Harrison a few years back. Property play?! This is striking at the very heart of the British Pub. The only real growth in pub values comes when they are sold off as private houses. Pubs are there for a reason.

Remember "the £7million pub in Fleet Street". Not only could this never give a good return to a (property) investor while it exists as a pub, it still needs constant upkeep. Quite simply: the tied, leasehold model is dead. If every licensee were given the opportunity to buy their pubs from their pubco, then the bondholders would have the best exit strategy from their misjudged investment. There should be an automatic first right of refusal to buy as a proportion of our pubs is officially designated as domestic accommodation.

ETI - particularly - cannot financially afford to be reasonable (to abide by any "code of conduct") even if it wanted to be. All they are doing is playing for time (but why is anyone's guess). It cannot be property growth because this has nothing to do with their achievable rent nor their beer sales.

In conclusion. If the pubco tie were to go.

- Rents could only go up by a small proportion of the beet rent and in most cases not at all.
- The cost to Government of losing a few hundred jobs must be weighed against the alternative scenario of half the number of pubs, hundreds of thousands of people without income, homelessness and massive state support.

ACTION REQUIRED

- The code of conduct by its very nature cannot work unless – at the very least – the tie is modified.
- The tie must be limited to family brewers (up to 500?) and then only to those products that they produce.
- The only way to ensure that vulture capitalism doesn't win the day is to maybe invoke some sort of first right to buy perhaps aided through a Government loan scheme.
- Property valuation involving intangible assets should be illegal (I thought it already was?). All tied/leased pubs should be re-valued as free houses – for that is what they become when sold off.

Only Government can stop the ongoing slide into oblivion of the Great British Pub and pub companies cannot, under any circumstances, be part of that process.

Yours sincerely

ANDMOVING FORWARDFOR YOUR CONSIDERATION - THE "PUB OF THE FUTURE"

- Pubs should be encouraged (given grants) to set up micro breweries – Quote: "transporting flavoured water around the country is so last century"
- Prince Charles' Pub is the Hub scheme must be given extra encouragement in bringing community components together but ONLY if the pub is un-tied, owner-run or under brewery management .
- Big mail order companies (Amazon) and national delivery companies should be encouraged to designate pubs for package consolidation (longest opening hours for collection)

Food for thought. *The Duke of Westminster picked up his pubs for 15 guineas here, 20 guineas there, back in the distant past and is not feeding an enormous debt structure. He is typical of the perfect benign pub freeholder and because none are tied, none of his pubs has closed. On the other hand, in neighbouring Chelsea, where ex-brewery pubs were snapped up by the big pubcos at excessive prices,*

many flagship pubs have had to close as "unviable" (at the crippling rent levels required to service their debt) and, in many cases, their history is buried with them.

Pubs DO work, but must not be subjected to the sort of pressures that shops are suffering. You can always incorporate a shop into a pub, you can NOT incorporate a pub into a shop. The hours are totally anti-social and the licensees should NOT be pressured by big business nor greedy landlords. Pubs MUST be owner-run (free houses or brewery managed) or leased free of tie.

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144 Email to Vince Cable, April 2013

sustained growth and higher skills across the economy.

BIS: **working together for growth**

333219

From:
Sent: 07 April 2013 18:53
To: Enquiry Enquiry (Other Government Departments)
Subject: Statutory Code for Pub Companies & Growing business fund

e-mail:

Mob:
 Office:

07 April 2013
 Dr Vince Cable
 Secretary of State for Business, Innovation and Skills
 Ministerial Correspondence Unit
 Department for Business, Innovation & Skills
 1 Victoria Street
 London SW1H 0ET

Dear Dr Cable

I read today with interest various newspaper articles regarding the plans for a statutory code and independent adjudicator to govern relationship between pub companies and publicans.

I am a partner in three pubs & restaurant businesses, all trading in Essex, these are tied businesses, three to Landlords Spirit Pub Co and one to Landlord, Blue Star Pubs & Bars which is part of the Heineken Company.

Over the last few years, our sales have maintained and in some areas grown by a small percent, they are healthy.

Overhead costs have of course increased significantly, Council tax alone last year increased by more than 30% on each venue.

Our landlords, to a point whereby the businesses are now struggling to make a profit, have increased the purchase price of beer to us, this has been steadily and constant, we are being squeezed to the fullest.

We have introduced many serious cutbacks to try to compensate for this remembering we need to also maintain our prices to compete with local competition, which for us there is a large number of brewery owned managed house who pay very much less for the beer they sell.

Our company accountants produce monthly management figures to ensure constant financial monitoring of the businesses.

We have of course approached Spirit & Blue Star (to whom we are tied) on numerous occasions asking for the price of beer they sell us, to be reduced and more in line with non-tied prices, but to no avail.

We have in our employ more than 60-staff, there jobs and our business are potentially at risk, this is due entirely to the prices we are being forced to pay by our landlords.

I wondered if the statutory code might help us with this problem and if so, when we might be able to take advantage of it, or, if there is anything you can suggest we do to get a better deal from our landlords and secure a future for our businesses and staff.

I noticed on your web site a statement regarding the new Anglia £3 million growing business fund. Last year we were offered the freehold of one of our pubs. When we approached our Bank, the 40% deposit required was outside our reach (the market price of the pub being £1.1m), however the cost of a mortgage is less than the current rent we pay and have been paying, for just over 4-years, our accountants have advised that the freehold option would be very good for our business plan.

The purchase of the freehold would allow us to be completely free of tie and increase our GP by another 60%. Could we be considered for the growing business fund.

Our aim is to try to take advantage of the current pub market and use this as a means of a controlled growth and expansion for our business over the next 10-years.

I look forward to hearing from you and really hope that you may be able to help.

Yours sincerely

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145 Email to Vince Cable, February 2013

322846

Importance: High6th April 2013

Mr Vince Cable MP
Ministerial Correspondence Unit
Department for Business, Innovation & Skills
1 Victoria Street
London
SW1H 0ET

Dear Mr Cable,

I have been the leaseholder of the ' ' Inn, a pub in ' since 1st October 2004, upon assignation at time of purchase there were five years left to run on the existing lease, and after two years of trading a new 20 year lease was granted, myself as the originator of the new lease.

Trade increased considerably within the first years of my tenure as hoped. Improvements were made to the property and continue to be made.

The current business climate, especially in this particular sector has been far from favourable, 2008 seeing a plateau in turnover and the subsequent four years have seen an enormous struggle just to maintain a foothold in a difficult market.

I have had to approach Criterion Asset Management who work on behalf of the Wellington Pub Company, our landlord, to appeal for help with splitting rent payments due to financial constraints and cash flow on a number of occasions over the past three years. I sought independent valuation of the business with specialists in this sector who looked at our situation and each deemed the rent we are currently paying seems very high, in accordance with market, location and turnover, given that it is a fully repairing lease. We pay £44,000 (inc VAT) and our turnover is currently £275,000.

Again this year I will find the same financial difficulties, not through any lack of work, motivation or desire to keep this lovely village pub afloat, but simply put, unfortunately the mathematics leave us in real difficulty.

I proposed two options to the Wellington Pub Company for consideration:

1. A reduction in our rent payable, facilitating continued upkeep of a very old building, and possibly a very modest income to survive on, given that our rental valuations came in at 20% below our current rent. An incoming new lessee would not take it on with the current rent, not that I wish to sell the lease, just be able to continue the business and survive.
2. The sale of the asset. I have a private investor that would be in a position to assist me with the purchase of the property from Wellington Pub Company, giving Wellington Pub Company, subject to fair valuation, maybe a decade of rental income by the sale of the building, during what can only be described as trying times for the pub trade.

Both of these proposals were flatly rejected by Wellington Pub Company in January 2013. I have tried to alleviate the situation I am in by making the following cost-savings and business initiatives:

- Staff levels have been reduced to the bare minimum to minimise wage expenses, even though this means I work longer hours.
- A decrease in waste in the kitchen and better food purchasing arrangements were introduced to improve food profitability.

- To try to improve turnover, I have introduced numerous menu changes to attract customers. In addition, the pub has weekly quiz nights, weekend carveries, "themed" evenings of food from different countries, new signage, focused advertising in the local paper and other publications, and an updated website. I also present the pub in a good state of repair, inside and out, to make it as attractive as possible to customers.

I feel the above shows my determination, initiative and commitment to keep the pub going for the benefit of myself and the customers in the village and elsewhere. However, the pub is "off the beaten track", in a small village which is not big enough to support it on its own. Passing trade is essential and I am trying to gain this through differentiation from my many competitors.

I am a free of tie pub, but the crippling rent that the Wellington Pub Company requires that I pay is ruining our chances of survival. We are the only business in our village and we are the heart of the community, but the Wellington Pub Company fails to acknowledge this or the financial situation we are in and would rather we run the business into the ground and board everything up.

I would very much appreciate it, if you could look into the situation we are facing with our crippling rent. We are not the only pub in this situation. There are many more like us within the Wellington Pub Company group and we, along with our customers, all face a very bleak future, if the relentless rent demands continue to be placed upon us.

I look forward to hearing from you.

Kind regards

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146 Email to Vince Cable, April 2013

From: BIS Central Drafting Unit
Sent: 11 April 2013 10:11
To: BIS Central Drafting Unit
Subject: FW: Pub Industry Statutory Code of Practice
Please log as TO Standard Line - 30B46 Pub companies - Swinson - and assign to CDU1.
Adam

33-510

From: BIS Central Drafting Unit
Sent: 09 April 2013 12:39
To: BIS Central Drafting Unit
Subject: FW: Pub Industry Statutory Code of Practice

PubCo issues. CCP?

From: _____ (MPST MIN) **On Behalf Of** Cable MPST Correspondence
Sent: 09 April 2013 11:57
To: BIS Central Drafting Unit
Subject: FW: Pub Industry Statutory Code of Practice

From: CABLE, Vincent [mailto:vincent.cable.mp@parliament.uk]
Sent: 09 April 2013 09:28
To: Cable MPST Correspondence
Subject: FW: Pub Industry Statutory Code of Practice

From: _____
Sent: 08 April 2013 23:47
To: CABLE, Vincent
Subject: Fw: Pub Industry Statutory Code of Practice

Dear Mr Cable

I'm very much concerned about the article that appeared in yesterdays Mail on Sunday and as a result, I have sent the email below to George Osborne.

The pub sector is still in a mess, even with the threat of intervention, with tied publicans up and down the country hanging on for dear life in the hope that this Government will help ease their pain and stop pubco abuse. Thousands upon thousands of lives have been destroyed by the greedy pubcos and although we can't change that, a statutory code that contains a free of tie option can effect change that will benefit publicans, consumers and brewers alike. The removal of an abusive cartel from the sector will undoubtedly allow brewers, publicans and consumers to get back to doing what they do best - brewing, selling and drinking beer rather than paying off the ill-advised borrowings of badly run property companies.

Best Regards

Mobile: -

----- Forwarded Message -----

From: steve corbett [REDACTED]
To: "contact@georgeosborne.co.uk" <contact@georgeosborne.co.uk>;
 "george.osborne.mp@parliament.uk" <george.osborne.mp@parliament.uk>
Cc: "public.enquiries@hmtreasury.gsi.gov.uk" <public.enquiries@hmtreasury.gsi.gov.uk>
Sent: Monday, 8 April 2013, 23:09
Subject: Pub Industry Statutory Code of Practice

Dear Mr Osborne

I've been in the licensed trade for almost 30 years. I have successfully operated numerous restaurant, bar and pub groups. I'm a founder member of the Fair Pint Campaign and a current steering group member of the Independent Pub Confederation (IPC).

Along with many others, I was shocked to read in the Mail on Sunday that you may be looking to block plans to introduce a pub industry statutory code of practice.

In recent years pub businesses have been failing in unprecedented numbers. Much of the damage being caused to publicans, and the cause of so many of these pub failures, is the abuse of the beer tie and rental valuation systems by companies such as Enterprise Inns, Punch Taverns and brewers that copy them such as Greene King, Marstons and Shepherd Neame. Organisations like the British Beer & Pub Association (BBPA) may wish to promote 'other issues' such as duty and supermarket pricing as the reasons for pub failures but this simply isn't true. Higher taxes may not help but they aren't closing pubs.

The BBPA does not represent publicans. It is paid for by property companies and brewers. The so called Beer Group (APPBG), Chaired by Andrew Griffiths and managed by Robert Humphries, is paid for by those same parties and does not represent publicans. For far too long both of these organisations have pretended to represent the interests of real publicans whilst in fact furthering the interests of a small number of larger benefactors such as Enterprise Inns and Marstons. In truth, the BBPA and the beer group are far too conflicted to present a true and complete picture of the problems faced by pubs and it does not help with the real issues, nor does it confer credit on Government, when the treasury seems so ready to be part of the smoke screen being thrown up by the BBPA, the pubcos and the beer group.

The statutory code was set to level the playing field between tied and non-tied tenants and breathe life back into a sector that has been virtually destroyed by the greed of a few. Vince Cable's much needed solution, originally put forward by Peter Luff, was all about preserving jobs, livelihoods and community assets. It was about looking for a fair deal for small businesses in a sector that has become dominated by a small number of property companies and large regional brewers. Whilst we are all looking for a statutory code to ease the pressure for tied publicans, we are still losing hundreds of millions of pounds each year to pub companies in order to support the unsustainable debts they took on in the first place. Much of this money, so needed for investment in the sector, is simply paid away offshore to bondholders. This simply can't be right.

The sector is at a crossroads and a statutory code, with the correct content, will put the industry back on the road to recovery. It will create necessary change and promote a way forward that offers greater protection for existing publicans and newcomers to the industry such that they do not suffer the extraordinary level of exploitation that has been seen in so many cases up and down the country. We have had four select committee inquiries all

screaming for change yet the abuse levelled at tied publicans still goes on today. It seems that Vince Cable, Jo Swinson and other like minded MP's who care about pubs and publicans are keen to see change that will loosen the grip of the property companies that care very little indeed about the future of the cultural icon that is the Great British Pub.

A statutory code of practice that enshrines in law the principle that the tied tenant should be no worse off than if they were free of tie is the only supportable position. I hope you will agree.

Yours Sincerely

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147 Email to Vince Cable, April 2013

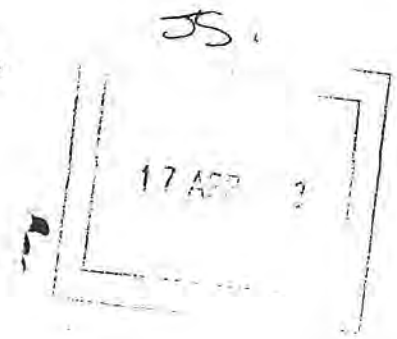
332851

From: BIS Central Drafting Unit Sent: 17 April 2013 08:32 To: BIS Central Drafting Unit Subject: FW: Pubcos TO SL Pubco. Paul -----Original Message----- From: [REDACTED] (MPST MIN) On Behalf Of Cable MPST Correspondence Sent: 16 April 2013 16:31 To: BIS Central Drafting Unit Subject: RE: Pubcos Hi [REDACTED] Was this for us to log? [REDACTED] -----Original Message----- From: [REDACTED] (MPST MIN) On Behalf Of BIS Central Drafting Unit Sent: 16 April 2013 10:35 To: Cable MPST Correspondence Subject: RE: Pubcos Pubco standard line for logging please Thanks [REDACTED] -----Original Message----- From: [REDACTED] (MPST MIN) On Behalf Of Cable MPST Correspondence Sent: 12 April 2013 11:23 To: BIS Central Drafting Unit Subject: FW: Pubcos -----Original Message----- From: Enquiry Enquiry (Other Government Departments) Sent: 12 April 2013 08:37 To: Cable MPST Correspondence Subject: FW: Pubcos Dear Colleague, Is this something you can help with? If you are able to answer this enquiry please reply to the enquirer directly, if this enquiry is not for you to answer please reply to the enquiry email address letting us know. Many thanks, [REDACTED] BIS Communications Directorate Enquiry Unit | Department for Business, Innovation & Skills | enquiries@bis.gsi.gov.uk | T:+44 (0)20 7215 5000 | F:+44(0)20 7215 0105 | www.bis.gov.uk | Blog: blogs.bis.gov.uk | Twitter: @bisgovuk The Department for Business, Innovation & Skills (BIS) is making a difference by supporting sustained growth and higher skills across the economy. BIS: working together for growth -----Original Message----- From: [REDACTED] [mailto:[REDACTED]] Sent: 11 April 2013 15:36 To: Enquiry Enquiry (Other Government Departments) Subject: Pubcos Dr Cable - I am sure that I am not the first tied publican to drop you a line after reading that The Chancellor may be muscling in on your patch and specifically the upcoming action that you have promised to sort out the problem of the pubcos. I hope that it is something that you can nip in the bud because interference from Mr Osborne can only be counter productive. Everybody thinks that after he recently had lunch with a few of the power brokers in the brewing and pub industry he must now be siding with them and that the desperately needed and many years overdue reforms to the pubco / brewing industry have been lost. I believe that you are a principled politician and I do not think that you will allow yourself to be diverted from your course by The Chancellor or anyone else for that matter. This is a massive potential feather in your cap. To succeed where others have failed time and time again, letting down many thousands of publicans, including thousands of good people who have been driven to ruin and beyond by the utter greed of the pubcos is something that could forever label you as the man who saved our industry and injected new life into it. Our industry has been sold out so many times by and to big business, please do not sell us out to George Osborne and his lunch hour lobbyists. [REDACTED] Licensee and proprietor. [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] ----- This email was received from the INTERNET. Communications via the GSi may be automatically logged, monitored and/or recorded for legal purposes. -----

148 Letter to Vince Cable, April 2013

33
d 757796
332994

3cb Pub Co



12TH April 2013

Received in
Central Drafting Unit

18 APR 2013

The Right Honourable Vince Cable.
Ministerial Correspondence Unit.
Department for Business, Innovation and Skills.
1 Victoria Street.
London.
SW1H 0ET

Dear Sir,

I am writing to you hoping that you are able to help my family and I in some way. I am the licensee of the [redacted] and have been for the last 13 years. I lease the pub from Punch Taverns and over the years they have increased my rent from £43000 per year to £84756.36 per year.

My taking's over this period has stayed around £480000 per year. So each year it has got tighter and tighter so that the past few years we are making any money at all.

My wife and myself have retired over ill health so my Daughter and Son in law now run the pub with 16 staff. We are taking good money, and we are busy for a village pub, but Punch take all the profits and we get hardly any.

So far I have had to plough back into the [redacted] £92000 to keep us afloat, and am in debt to the Bank and Credit Card Companies for £72000 which I will never pay off while we are in this situation.

If there is anything that you can do for us as we need help it would be much appreciated . We don't mind paying a fair rent but this is not by far.

Yours Faithfully

149 Letter to Vince Cable, April 2013

013/777 284 / 754919
326929

09 February 2013

Subject: Enterprise Contracts

Dear Dr Vince Cable

The _____ have merely had this pub for a small number of months, furthermore presently hold an Enterprise, Unique Pub Properties Limited, Beacon Retail Partnership Tenancy Two year contract.

I am aware with the aim of a new statutory code of practise for pubs companies that are in place in regards to "Tie In" contracts the 10th January 2013.

However, are you able to enlighten me as to whom I require to make contact with in regards to an adjudicator/supervisory body otherwise someone who is capable of being of assistance in regards of renegotiating a new contract.

I am literary holding on at this instant by my fingertips furthermore in arrears I have under no circumstances been in prior to. It is not possible for me to build in the least revenue to pay my bills, delivery charges, fines for purchasing supplies elsewhere etc.

Whilst I went into this contract, a well-versed area manager promised me verbally, a different contract to the printed contract I received. Regrettably, I had no opportunity to use a solicitor to interpret this documentation to me or go through this first with this solicitor, as there was not the time to do so.

At this point in time, I was under excessive emotional pressure, attending to my mother in law at _____ hospice, this well documented. Whilst I was there, I received a call on my mobile, _____ informed me I had 30 minutes, if I still required this property, since he was about to go on holiday, and that this was all the time afforded to him.

_____ said that to smooth the progress that he would drive me to a solicitor's office, since there was no time to waste, adding that others were interested in the property. Furthermore, that any solicitor would be satisfactory and would be well versed in what is required to do.

_____ subsequently drove to a solicitor, after which he indicated a solicitor's office, informing that he requires that I go into the office taking the documentations, sign the documents and pay their fee.

I look forward to your response, to who can help with renegotiating this "Tie In" contract which as been currently highlighted in the House of Commons.

Best regards