

A Government Consultation by the
Department for Business
Innovation & Skills
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Independent Family Brewers of Britain
(IFBB)

Response

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1. Introduction

1.1 The IFBB was established in 1993 as a voice for the Family Brewers. It consists of 29 brewers who represent a distinct and unique sector of the UK brewing industry – the family owned and operated brewing company.

1.2 We collectively own over four thousand pubs which are at the heart of the communities we serve and employ 37,000 people across our breweries and pub estates. We produce over 500 distinctive, regionally brewed cask beers ('real ale') and support regional and local suppliers through the use of locally sourced raw materials and services. The name of each family brewery is still prominently displayed on and in each IFBB member's pub indicating the main brand of cask beers sold in the pub. Each of these names embody a long brewing tradition.

1.3 While our breweries have been family owned and run for many generations, our businesses are dynamic and innovative, constantly developing new products and brands and spending tens of millions each year on pub developments. We share a common goal to "maintain the traditions of cask brewing in Britain, and to continue to support and promote this healthy and vibrant sector of the industry". In 2013, on average IFBB members are investing of £1.4million in their tenanted pub estate. In 2014 they are planning to invest a further £1.9million, creating 138 jobs.

1.4 Three quarters of our pubs are relatively short term but renewable tenancies, a long established business model, which offer a partnership between the pub-owning brewer, supplying beer and looking after the property, and the licensee who manages the retail business. The remaining pubs are mainly managed houses and some longer leases. All our members maintain, repair and improve their pub properties at their own cost, taking a long term view of that investment.

1.5 The IFBB rejects in the strongest terms the central assumption in the Consultation Document that the current challenges experienced by tied tenants are almost solely the result of what has been referred to as "landlords' exploitative financial practices." We continue to believe that the true exploitative force on the industry remains the Government's tax take and burden of red tape which extracts far more from the tenant's pocket than any landlord could do.

1.6 We are very concerned that the introduction of a Statutory Code risks further costs and regulatory burden to an industry already beset with heavy taxation and compliance costs. At the same time the major progress made across the industry through Version 6 of the voluntary Code of Practice since 2011 should be recognised and given more time to bed in. All companies, large and small, operating pub agreements have seen benefits from the open and transparent principles established in the Voluntary Code. Indeed the results below of an independently commissioned survey of just under 1800 tenants across the pub estates of 16 IFBB members by industry specialist marketing and PR agency Elliott Marketing & PR illustrate that the current system is working well and indeed improving.

- My rent is fair for the business I do
 - Strongly agree 26%
 - Agree 25%
 - Neither agree/disagree 21%
 - Disagree 16%
 - Strongly disagree 12%
- My brewery has lived up to my expectations so far
 - Strongly agree 38%
 - Agree 34%
 - Neither agree/disagree 17%
 - Disagree 6%
 - Strongly disagree 4%
- Would you look to renew your agreement when your current agreement expires?
 - Yes 83%
 - No 17%
- I am happy with the level of support I receive from HO
 - Strongly agree 41%
 - Agree 32%
 - Neither agree/disagree 15%
 - Disagree 8%
 - Strongly disagree 4%

1.7 The IFBB are at a loss to comprehend why BIS are interfering yet again when there is no market distortion and their own enquiry in 2011 clearly stated:

“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 OFT 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.”

1.8 All the members of the IFBB are members of the British Beer & Pubs Association (BBPA) because it is the principle trade body for the brewing industry, as well as representing pub owning companies. We are aligned with the separate response from the BBPA to this consultation proposing that self-regulation be given further time to show its effectiveness.

2. Executive Summary

2.1 Tenancies and Leases

2.1.1 There have recently been four separate Select Committee enquiries into our industry and the beer tie, in 2004, 2009, 2010 and 2011. All have been aimed at the 'power of the pub companies' and specifically the long, assignable Fully Repairing and Insuring (FRI) leases, which have become common since the Beer Orders broke up the national brewers in 1991.

2.1.2 In response to the House of Commons Business, Innovation and Skills Committee's tenth report of session 2010-2011 into pub companies, the Government recognised (Nov 11) that, particularly in the case of the traditional tenancy model, the tie may play an important role in safeguarding the future of Britain's smaller breweries.

2.1.3 In that report it was concluded that the traditional brewery tenancy is fundamentally different to the longer term FRI lease market and should be governed separately, with a strengthened code of conduct. There have been no reported issues with IFBB members and their tied tenants requiring mediation by the resolution service PICAS or being referred to PIRRS for rent review resolution. However the code of conduct has been strengthened through the voluntary introduction of Version 6 of the Industry Framework Code (Section 2.3).

2.1.4 The report acknowledged that the traditional tenancy model not only provides a low cost entry for a licensee wishing to run a pub but also offers a low cost/low risk exit, as neither the freehold nor the lease need to be sold on. In addition, the fact that the costs of property – repair, insurance, maintenance and improvements – are borne by the brewer significantly reduces the risk profile. Long term decisions about the property can be made without short term risk to the tenant.

2.1.5 We do however within the IFBB Companies, have a number of full repairing leases which again have not been subject to any complaints or referrals to PICAS or PIRRS. It is the closer working relationship with our tenants and lessees that set us apart and our determination as Family Brewers to settle the few disputes we do have in house. Our success is totally governed by our tenants' success and it is in our interest to make sure we listen carefully when a problem arises. We therefore believe the

500 cut off figure proposed in the legislation to be paramount to us being able to continue running our businesses in the way we and our tenants have been accustomed to whether that be by way of the traditional tenancy or as stated in one of the fewer but equally well supported leasehold premises.

2.1.6 We would stress that the 500 threshold should not include managed houses as they are not relevant to any of the proposals.

2.1.7 In summary, the current problems for a small number of licensees have come about because they took on historic, assignable long leases at a premium during economic prosperity. Such businesses are now, as in many sectors, suffering as a consequence of the downturn. It should be noted that family brewer traditional tenancies are not assignable and we enjoy a much more personal and one-to-one relationship with our licensees with the opportunity for tenants to meet senior management before taking on a tenancy. Our agreements are fundamentally different from FRI assignable leases.

2.2 Special Commercial and Financial Advantages (SCORFA)

2.2.1 At the heart of a traditional tenancy is a unique interdependency, whereby both parties to the tied agreement rely on each other to ensure that the outcome of the agreement is profitable. The traditional tenancy differs from the more straightforward commercial lease, as the landlord of the premises has an active role in the successful outcome of the business. SCORFA illustrates the financial element of the landlord's input to the traditional tenanted partnership.

2.2.2 SCORFA benefits can be grouped within the categories as below:

1a. Property Investment: Typically, the brewery landlord of a traditional tenant bears such costs as:

- Building Insurance which the commercial landlord will charge on as insurance rent.
- Maintaining the structure of the premises.
- Maintaining the infrastructure of the premises including gas / water piping and electric wiring.
- Decorating the exterior of the premises including the supply of signage.

1b. Other Capital Investment & Financial Advantages: The brewery landlord of a traditional tenant invests substantially in the development and maintenance of traditional tenanted premises, as opposed to the commercial landlord. This varies from building extensions to new kitchens and sewage treatment plants.

2.2.3 The landlord funds these works, provides necessary architectural services and bears the cost of depreciation. The landlord holds some or all of the tenants inventory via a loan.

2. Business Advice & Commercial Benefits: The brewery landlord of a traditional tenant is actively involved in the success of the business. This will involve the provision of training, together with operational support, involving the main elements of the business:

- Business advice
- Development advice
- Beer quality / presentation
- Wine ranging and marketing
- Advice on food business / menus
- Procurement across numerous aspects of the business
- Marketing support
- Digital marketing
- Property rates service

2.2.4 In April 2013, the IFBB commissioned an international accounting firm to independently collate the value of SCORFA provided to licensees by member companies. Member companies provide different levels of support, as would be expected in a highly competitive market. Nevertheless, there is sufficient compatibility to generate robust indicative values.

2.2.5 The results were as follows:

	Average Level of Support Per Pub Per Annum*
Property Investment & Other Capital Investment & Financial Advantages	£17,000
Business Advice & Commercial Benefits	£8,000
TOTAL	£25,000

* These figures have been rounded up or down to the nearest thousand and are the level of support given per pub per annum. It will vary from pub to pub.

2.2.6 The free market equivalent of these benefits may be significantly higher as they would not benefit from bulk purchasing.

2.2.7 Other areas of SCORFA that have not been financially assessed or quantified in the above table by pub are:

1. **Rent:** Traditional tied tenanted rents are substantially lower than free of tie lease rents.

As enshrined in Version 6 of the Code, traditional tenancies are not subject to UORR (upwards only rent review), which is a standard feature of a commercial lease.

Version 6 of the Code also ensures that rent can be rebased in the event of a material change of circumstance adversely impacting on the Fair Maintainable Trade of a tenanted house. This safety mechanism is not found in commercial leases.

2. **Discounts:** The majority of brewery landlords of traditional tenanted pubs provide discounts on the cost of tied goods.

2.2.8 In addition to services above the traditional tied tenant enjoys further intangible benefits which are not available to commercial lessees:

- **Peace of mind:** The traditional tenant is not bound into a fixed term. If for whatever reason he wishes to give up the tenancy, he can do so upon his issue of notice, without financial penalty and with a guaranteed purchase of stock and inventory.
- The traditional tenant will enjoy a personal relationship with his brewery landlord.

2.3 The Industry Framework Code (IFC)

2.3.1 We believe that the IFC provides a strong platform for self-regulation in the industry, with common ground among pub owning companies and operators. All of our members complied with the requirement to have a code in place and none have experienced any issues which have required the services of the PICAS / PIRRS arbitration services.

2.3.2 The intention of the IFC was to provide a framework for open and transparent business transactions, specifically the agreement by both parties on rent. It has achieved this aim as exemplified by the rent setting systems, for example the shadow P&L, which have been reviewed and tightened up.

2.3.3 Furthermore, the emphasis on the differences between FRI long leases and brewery tenancies has allowed us to highlight the long established benefits which we were not previously making the most of. Potential licensees and newcomers to the trade can now be made more aware of the extensive support offered by brewers to their tenants.

2.3.4 Recent research by Elliott Marketing & PR has shown that:

- 73% of our licensees are content with the support that their landlord provides.
- 83% of our licensees would seek to renew their agreement.

2.3.5 These results provide strong evidence of a successful business partnership.

2.4 A Statutory Code

2.4.1 The Government says it is committed to a free market, and to reducing the amount of Red Tape. If that is the case why are the Government now considering yet more legislation without a detailed investigation into the allegations of unfairness, particularly since the voluntary code that was requested by the BIS Committee has now been put into place following a lot of hard work and cooperation within the industry?

2.4.2 The situation that the Government Consultation is seeking to change was caused by the Government's last major interference into our industry with the Beer Orders of 1989. The law of unforeseen and poorly thought through consequences is in all likelihood to be repeated.

2.4.3 In the past ten years we have been further subjected to five enquiries and two OFT reports. In each and every case the fundamental principle of the tied business model for public houses has been supported both in the UK and in Europe through the 'Block Exemption'.

2.4.4 The IFBB members would currently all be below the threshold proposed of tenanted and leased 500 pubs. However it is proposed that the Secretary of State be allowed to amend that level and that is a serious concern to us. We firmly believe that any alteration to the threshold should only ever be carried out through a Parliamentary Bill or equivalent and not on the whim of the Secretary of State.

2.4.5 If any terms of a new statutory code, for example a free of tie option or a guest beer provision, were suddenly to become a right for tenants at a lower threshold, say 200 pubs, it would have devastating consequences for our businesses.

2.4.6 There seems little to be said for increasing regulation, with more legislation, at a time when the Government is committed to reducing 'red tape'. As recently as November 2011 the Government's own report to DBIS said that there were no competition issues with the market (two OFT enquiries) and that the debate over 'free of tie' or 'tie' was 'a distraction'.

2.4.7 For many licensees, sadly, the years of recession between 2007 and 2010 were too much for their business. High taxation and employment costs, the smoking ban, loss leading beer pricing in supermarkets, behavioural change by consumers and simply escalating costs (e.g. rates and utilities) of doing business all played a part. A statutory regulator would not have saved those businesses.

3. Responses to Questions in Consultation Document

3.1 Introduction

Our responses are predicated on the basis that we do not believe that the evidence supports the needs for a Statutory Code and adjudicator.

3.2 Responses

Q.1 Should there be a Statutory Code?

THE IFBB DOES NOT ACCEPT THERE IS A REQUIREMENT FOR A STATUTORY CODE.

1.1 We believe that self-regulation is working well and should be given more time to be integrated throughout the industry. Indeed the introduction of statutory regulations as drafted will certainly have unintended consequences including distorting the free market place. It is hard to see how a Statutory Code would not have a negative impact on family brewers owning less than 500 tenanted and leased pubs despite being potentially excluded from the statutory proposals.

1.2 The IFBB has played a significant part in both approving and consequently implementing, on a voluntary basis, Version 6 of the Industry Framework Code and is fully committed to fully embracing it in all future tenancy agreements.

Q.2 Do you agree that the Code should be binding on all companies that own more than 500 pubs? If you think this is not the correct threshold, please suggest an alternative, with supporting evidence.

2.1 We support a 500 tenanted and leased pub threshold, but only on the basis that this does not lead to a material distortion in competition above and below this threshold.

2.2 We welcome the fact that family brewers will not be affected in the event that a 500 tenanted and leased pub threshold were implemented. This of course is subject to the cost of self-regulation not being disproportionately high as a consequence.

2.3 The current proposals which abolish the machine tie and demand a guest beer be offered could materially distort competition between large and smaller companies with less than 500 tenanted and leased houses. We would also point out that as drafted the guest beer could be nominated as a lager which we believe is not the intention.

2.4 We believe that we should be allowed to continue to operate a full tie on the supply of all drinks (beer, cider, wines, spirits and soft drinks) as sanctioned by the European Commission and British competition law.

2.5 In addition, as drafted, the number of pubs would also mean that managed house numbers are included in the 500 tenanted and leased pubs proposal and we strongly argue that managed house numbers should not be part of the equation.

2.6 Any future alteration of the suggested minimum threshold should only ever be introduced through a full parliamentary Bill or equivalent and not just by the Secretary of State.

Q.3 Do you agree that, for companies on which the Code is binding, all of that company's non-managed pubs should be covered by the Code?

3.1 We do not believe that managed pubs should be included in the proposed threshold of 500 pubs.

Q.4 How do you consider that franchises should be treated under the Code?

4.1 We believe if operated under the British Franchise Association regulations, franchises should not be included under the proposed Code.

Q.5 What is your assessment of the likely costs and benefits of these proposals on pubs and the pubs sector? Please include supporting evidence.

5.1 We do not agree with the costs and benefits stated in the Consultation Document regarding the impact the proposals will have on the pub sector. However we do concur with the points made by the BBPA in their reply to this question.

5.2 It should be noted that if statutory regulation was introduced for companies owning more than 500 tenanted and leased pubs there will be a financial impact on the IFBB members as we will still have to maintain PICAS and PIRRS as part of voluntary self-regulation. There will be far fewer pubs under self-regulation with costs remaining the same resulting in a much greater administrative and financial burden on our members.

5.3 The imposition of a Statutory Code would be totally contrary to current Government policy in that the additional burden of red tape on top of the cost of extra regulation would be disproportionate and severely impact IFBB member companies.

Q.6 What are your views on the future of self-regulation within the industry?

6.1 We participate in and fully support self-regulation within the industry, which we believe has made great progress especially over the last year. We believe the system is working well and should be allowed to prove this by its continuance following Version 6 of the Code being launched. We are also as part of our support committed to continuing with self-regulation despite our members being below the threshold of 500 tenanted and leased pubs.

6.2 The new Code includes the establishment of a new Regulatory Board to oversee the corporate governance of BIIBAS, which accredits all company codes, and the PIRRS and PICA panels, which have already been successfully established and provide independent, low-cost arbitration services for rent and other disputes. This new Regulatory Board is in the process of being finalised and we fully support the formation of this new Board.

Q.7 Do you agree that the Code should be based on the following two core and overarching principles?

i. Principle of Fair and Lawful Dealing

7.1.1 Member companies are totally committed to fair, transparent and lawful dealing with tenants and lessees and all other business partners and to stamping out any abuse of the tied pub model, as has been proved by the take-up of the voluntary self-regulatory system.

ii. Principle that the Tied Tenant should be No Worse Off than the Free-of-tie Tenant

7.2.1 It should be noted that we do not believe that there is such a thing as a 'Free of Tie' tenant whose landlord bears the property risk without recharge to the tenant. Having said that, the IFBB fully supports the principle. Although every pub is different and a one rule fits all scenario is impossible we have explained in Section 2.2 the SCORFA benefits enjoyed by a typical / average tied tenant partnered with an IFBB member.

7.2.2 SCORFA benefits should be considered over the lifetime of a tenancy or lease agreement. One point that is almost impossible to quantify is the balance between risk and reward of the different business models and this is reflected by very few pubs operating on a free-of-tie lease basis. However tenancies carry far less risk than free of tie leases.

Q.8 Do you agree that the Government should include the following provisions in the Statutory Code?

i. Provide the tenant the right to request an open market rent review if they have not had one in five years, if the pub company significantly increases drink prices or if an event occurs outside the tenant's control.

8.1.1 Agree. Members set out in their own Code when and how they can increase prices. This is normally annually, or when the wholesale price of the product is increased by a supplier.

ii. Increase transparency, in particular by requiring the pub company to produce parallel ‘tied’ and ‘free-of-tie’ rent assessments so that a tenant can ensure that they are no worse off.

8.2.1 We support greater transparency of SCORFA benefits which would highlight the key benefits of the tied model to prospective tenants and lessees at the time of any rent assessment. However we do not believe it is practicable or possible to lock these into rent assessments on an individual pub basis where every pub is unique and rent is part of a commercial negotiation. This would have to be illustrative over the life of an agreement, and over the entire company estate. There is also the issue that in relation to ‘traditional’ brewery tenancies in particular, there is no equivalent free-of-tie model to compare rent assessments with.

iii. Abolish the gaming machine tie and mandate that no products other than drinks may be tied.

8.3 We do not agree and sincerely believe the tied system serves both tenant and company well in that members keep a close watch on the quality of the machines, the income and the need to change or improve the machine as income slows. Many members employ a consultant to deal with these matters who tenants can readily contact should they have any issues.

8.4 We believe that by only imposing free-of-tie on AWP machines on those companies with more than 500 tenanted and leased pubs it will significantly distort the market place.

8.5 We have a real concern that removing the tie would lead to criminal behaviour by small independent suppliers and that the Government’s income would seriously reduce as control over taxation and the collection of such would become unregulated.

iv. Provide a ‘guest beer’ option in all tied pubs.

8.4.1 We do not agree.

8.4.2 The 'guest beer' option is defined as 'the tenant should be allowed to purchase and sell one draught beer from any source'. The consultation document justifies the inclusion of such an option by claiming 'it may be of benefit to both the tenant, consumer and independent breweries'. There is no evidence to support this assumption and it would lead to competition issues as our members brew their own beer. We already offer a wide variety of choice for tenants within their existing supply agreements.

8.4.3 The IFBB would also point out that, although our members are within the number of 500 outlets as proposed, if enacted the guest beer rule will distort the market place. We believe the intention of the guest beer option being made available was actually to allow a guest ale. If that is the case the drafting is poor as a licensee could nominate a lager as currently worded.

8.4.4 In any event the introduction of a guest beer option is likely to seriously disadvantage small to medium size brewers such as IFBB members in favour of the bigger brewers in that they brew large volumes and through the economies of scale would be able offer particularly competitive terms on any guest beers. The consequence of this would mean we would become less competitive due to our diminishing economies of scale.

v. Provide that flow monitoring equipment may not be used to determine whether a tenant is complying with purchasing obligations, or as evidence in enforcing such obligations.

8.5.1 We do not agree.

8.5.2 Flow monitoring equipment has a variety of uses including monitoring the quality of product, line cleaning and management information. There is no evidence presented in the consultation as to why flow monitoring equipment should not be used as part of the process to determine if a tenant is not complying with purchasing obligations, particularly taking the additional points above into account.

8.5.3 The current Industry Framework Code has a flow monitoring protocol which must be included in individual company codes stating that flow monitoring equipment cannot solely be used as evidence that a breach of contract has occurred. We would support this as a fair and reasonable position to take in any Statutory Code.

Q.9 Are there any areas where you consider the draft Statutory Code (at Annex A) should be altered?

9.1 We would support the BBPA's response to this question.

Q.10 Do you agree that the Statutory Code should be periodically reviewed and, if appropriate amended, if there was evidence that showed that such amendments would deliver more effectively the two overarching principles?

10.1 We are committed to reviewing the self-regulatory system on a three-year basis and believe that any Statutory Code should also be reviewed on a similar timescale.

10.2 However on page 28 of the consultation document it states that the Secretary of State in reviewing the Statutory Code would have the power to alter the minimum threshold above which the Code would apply. We strongly disagree with this proposal and would recommend that any alteration to the minimum threshold should only ever be carried out through the introduction of a full Parliamentary Bill or equivalent measure and should not just be a decision made by the Secretary of State.

Q.11. Should the Government include a mandatory free of tie option in the Statutory Code?

11.1 The imposition of a mandatory Free-Of-Tie (FOT) option would destroy the basis of the traditional tenancies that our members operate and that have served the industry so well over a period of many centuries. The Tie has been supported by the European Commission and many previous OFT investigations.

11.2 A mandatory FOT option would also have serious unintended consequences for members' entire pub estates as identified in the consultation.

11.3 For example one of these consequences could be that the IFBB members became nervous about the future market and curtail future investments in their estate with the consequent negative impact on jobs. We have recently completed a survey of our members that indicates that each company on average is planning to invest £1.9million in their tenanted pub estate in 2014 creating an estimated average of 138 jobs. To potentially jeopardise such a considerable and important investment in local economies throughout the country would be a huge risk to all concerned including the Government.

Q.12 Other than (a) a mandatory free-of-tie option or (b) mandating that higher beer prices must be compensated for by lower rents, do you have any other suggestions as to how the Government could ensure that tied tenants were no worse off than free-of-tie tenants?

12.1 The IFBB believes that the current self-regulatory system and SCORFA already deliver this.

Q.13 Should the Government appoint an independent Adjudicator to enforce the new Statutory Code?

13.1 It would add cost and bureaucracy. Under the Industry Framework Code, PICA-Service already provides an independent conciliation and arbitration service for complaints around company conduct and PIRRS for rent reviews which we believe are perfectly adequate.

Q.14 Do you agree that the Adjudicator should be able to:

i. Arbitrate individual disputes?

14.1.1 We would point out that there are already a number of services listed below that are available to tenants to arbitrate disputes and that further regulation is not required:

- PICA-Service (disputes relating to breaches of the IFC)
- PIRRS (disputes relating to rent reviews)
- Through the court system over contractual disputes
- Other established arbitration bodies e.g. ACAS
- RICS also operate a resolution service

ii. Carry out investigations into widespread breaches of the code?

14.2.1 Investigations into breaches of the Code would have to be based on sound evidence, and specify where exactly the Code has been breached. Systems should be in place to prevent vexatious and speculative complaints being escalated, with the resultant time and financial cost of unnecessary investigations.

Q.15 Do you agree that the Adjudicator should be able to impose a range of sanctions on pub companies that have breached the Code, including:

(i) Recommendations

(ii) Requirement to publish information ('name and shame')

(iii) Financial penalties

15.1 The consultation contains no detail of an appeals process for companies. Recourse to such a system should be in place to prevent unfair decisions being reached.

Q.16 Do you consider the Government's proposals for reporting and review of the Adjudicator are satisfactory?

16.1 We would support the BBPA's response to this question.

Q. 17 Do you agree that the Adjudicator should be funded by an industry levy, with companies who breach the Code paying a proportionally greater share of the levy? What, in your view, would be the impact of the levy on pub companies, pub tenants, consumers and the overall industry?

17.1 The impact on the industry and consumers of setting up such an Adjudicator should be as limited as possible. As stated above, we believe the cost estimates of such a regulator are too low. There is the danger of regulatory creep by such a body, and we suggest a cap on the budget of the Adjudicator to minimise the impact on the pub sector.

17.2 The Levy as proposed will be paid by pub companies covered by the Code, in proportion to the number of pubs owned. In second and subsequent years of the Levy, it is suggested that those who breach the Code pay more. However, this still does not address managed companies and FOT companies having, as proposed, to pay into the Adjudicator system despite having no pubs that are actually covered by the provisions.

4. Conclusion

THE IFBB DOES NOT ACCEPT THERE IS A REQUIREMENT FOR A STATUTORY CODE.

4.1 Further to the evidence listed in this document the IFBB would request that the following points are taken into account:

- In the event a Code is introduced, we support a 500 tenanted and leased pub threshold on the strict condition that it does not lead to a material distortion in competition above and below this threshold. Managed pubs should not be included in the threshold number.
- Any future alteration of the suggested minimum threshold above which the Code would apply should only ever be introduced through a full parliamentary Bill or equivalent and not just by the Secretary of State.
- The current proposals to abolish the machine tie and offer a guest beer (which could be a pub's best-selling lager) would materially distort competition by favouring the largest brewers who would be best placed to benefit from the latter.
- Much of the consultation is flawed, misrepresentative and at times misleading. For example it is claimed that there have been over 400 complaints to the Bill when in fact there have been 400 enquiries.
- There is no evidence to show that self-regulation is not working nor indeed that a Statutory Code would work.
- The impact assessment includes a number of inaccuracies as outlined in the BBPA response.
- Our members treat their tenants fairly. Traditional brewery tenancies are a proven and successful business model that has survived the test of time evidenced by research carried out by Elliott Marketing & PR. We fully support transparency in all our dealings with our partner tenants and abhor any abuse of our relationship. Simply put it is in our best interests to look after our tenants in that their success is our success.

- 3.11 in the Consultation document states “The Government’s aim is to regulate proportionately”. We would argue that this is a contradiction in terms and history suggests that it is a very difficult balance for Government to strike when introducing new regulations.
- Any intervention in the industry at the end of the day is likely to be paid for by the consumer. Is that really fair or a desired outcome?
- The questionnaire that accompanies the Consultation Document is in our opinion very biased and the fact that a Government Minister interviewed on video is featured on the Consultation web page using emotive language and inaccurate data leads us to believe that the outcome of the review has already been pre-judged by those most closely involved with this important issue. We believe that the Ministerial interview, as well as parts of the Consultation Document and the questionnaire, are in clear breach of the Market Research Society Code of Practice designed to ensure fair and open consultations.
- The introduction of a Statutory Code:
 - Risks further costs and regulatory burden to an industry already beset with heavy taxation and compliance costs. We do not want or need any more regulation and must be better off without it.
 - Including a mandatory free of tie option will unquestionably distort the market leading to uncertainty, further job losses as well as reduced investment in pubs and consumer choice. The IFBB members are planning to invest an average of £1.9million each in their tenanted pub estate in 2014 creating an average of 138 jobs. Does the Government really intend to risk jeopardising this investment?
 - Will lead to damaging, unintended consequences such as higher costs for those companies using the current Voluntary Code. We want to continue with a cheaper, more efficient Voluntary Code which is already working well.

4.2 In conclusion the IFBB strongly rejects the proposal that a Statutory Code underpinned by a newly-formed regulator is a necessary or appropriate way forward. Indeed we believe it would distort the market and competition as well as lead to many damaging, unintended consequences. The existing Voluntary Code is already working well and should be given longer to be further improved and implemented in full across the industry.