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Pub Companies and Tenants: A Government Consultation

CAMPAIGN
FOR
REAL ALE

Response from CAMRA, the Campaign for Real Ale

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Introduction

CAMRA, the Campaign for Real Ale is a consumer group with around 150,000 members and acts as an independent voice for real ale drinkers and pub goers. Our vision is to have quality real ale and thriving pubs in every community.

The short term business practices of the large pub companies[1] are damaging the pub sector and holding back economic growth. CAMRA therefore supports the Government's proposed course of action.

Pub companies are extracting more than is justifiable from those running pubs. This is due to opaque and arcane methods of calculating pub rents, a pub company monopoly over the supply of tied products, and a gross imbalance of power. This has led to pub closures, under investment and the exit from the industry of countless talented licensees.

The large pub companies and their trade associations have shown themselves incapable of introducing a credible system of self regulation to ensure a sustainable division of profits between themselves and their licensees. In particular, they have sought to circumvent the principle that tied licensees should be no worse off than free of tie licensees. This has allowed them to continue charging inflated rents and unreasonably high tied product prices.

The twin challenges facing UK pubs are underinvestment and an inability to attract and retain talented publicans. The Government's proposed reforms, combined with a Market Rent Only[2] option, will help overcome these challenges delivering greater investment in pubs as well as supporting the retention of talented publicans.

Licensee Earnings

The primary rationale set out in the consultation for Government action is that the relationship between large pubcos and pub licensees is open to abuse, often grossly unfair and leads to substantial hardship for the individuals involved.

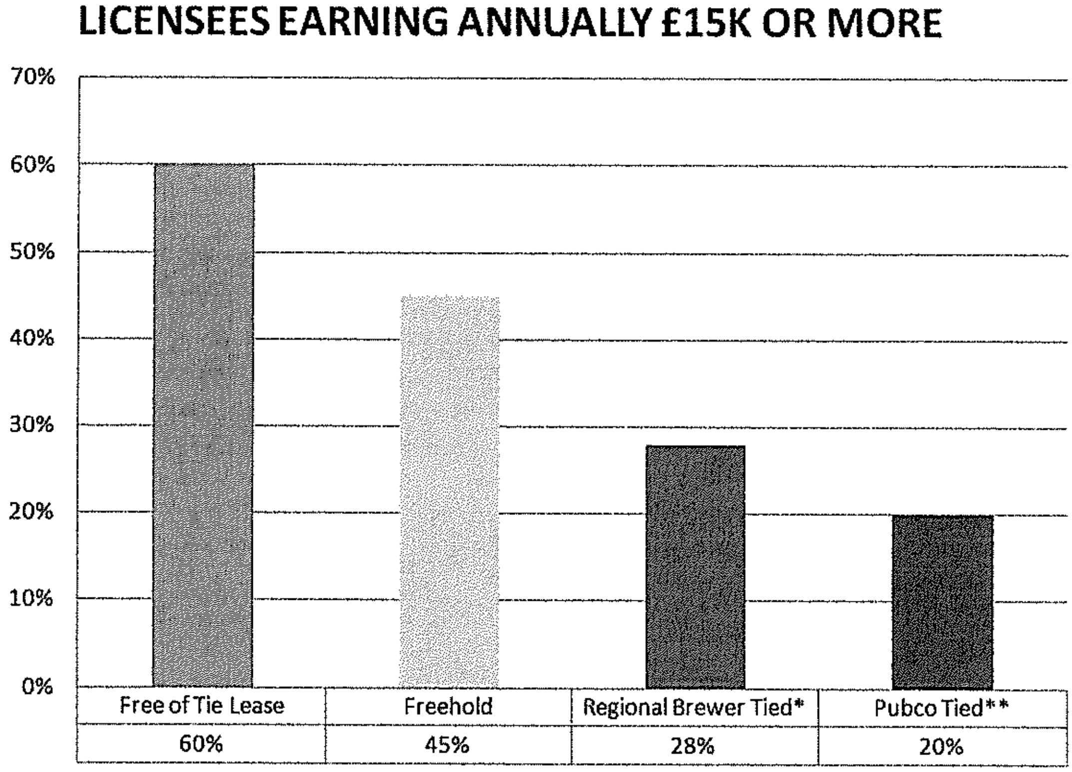
CAMRA commissioned CGA Strategy to independently carry out interviews with a representative sample of more than 850 pub licensees in England and Wales. CGA Strategy's survey report is added as an appendix to this submission.

The survey indicates that over the last four years the earnings of pubco tied licensees have actually fallen. This shows the failure of the self regulatory approach. In 2009, a CGA survey commissioned by the Business Select Committee revealed that 67% of pubco tied pub licensees earned less than £15,000 a year. This latest CGA survey shows that the number of pubco tied licensees earning less than £15,000 has increased to 80%.[3]

The real hardship caused by an inequitable business model is shown by the indication that 57% of large pubco tied licensees earn less than £10,000. This compares to only 25% of free of tie lessees earning less than £10,000.

[1] A large pub company is a company with more than 500 pubs
[2] The term "Market Rent Only Option" has exactly the same meaning as "Mandatory Free of Tie Option" and "Free of Tie Option".
[3] See Appendix One

Based on the survey results, the graph below shows the percentage of licensees earning £15,000 or more. Annual earnings of £15,000 a year are just above the level of the minimum wage for someone working 45 hours a week. A recent survey by the Publican's Morning Advertiser newspaper showed that 60% of licensees work at least 60 hours a week[4]. Furthermore £15,000 is indicated as the minimum starting salary for an employed licensee by the Government's National Careers Service.[5]



The secondary rationale for Government action is to ensure the long term health of the pub sector. Action to ensure that pubco tied licensees are no worse off than free of tie lessees will substantially reduce the hardship faced by far too many licensees, allowing them the freedom they need to grow their businesses.

The hardship faced by many tied licensees has impacted licensees' feelings towards their beer tie agreement as indicated in the graph below. 71% of licensees tied to large pubcos feel negatively towards their beer tie agreement, compared with just 49% of regional brewer tied licensees. Almost five times as many regional brewer tied licensees feel positive towards their agreement as national pubco tied licensees.

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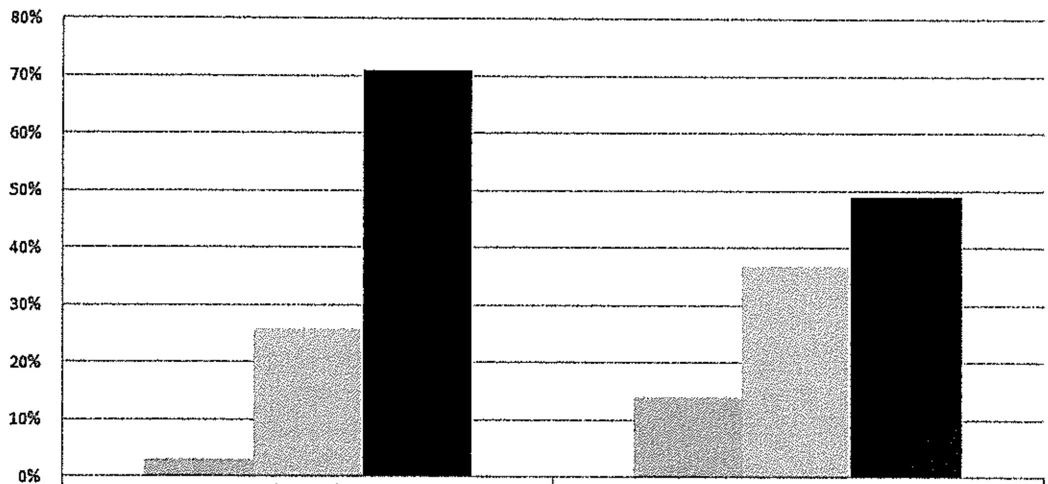
[4] http://www.morningadvertiser.co.uk/General-News/Majority-of-publicans-tied-to-big-pubcos-earn-less-than-the-minimum-wage

[5] https://nationalcareersservice.direct.gov.uk/advice/planning/jobprofiles/Pages/publican-licensee.aspx

* Pub operating company with fewer than 500 pubs

** Pub operating company with more than 500 pubs

DESCRIBE YOUR FEELINGS TOWARDS THE BEER TIE



	Pubco Tied**	Regional Brewer Tied*
Positive	3%	14%
Neutral	26%	37%
Negative	71%	49%

Self Regulation

The British Beer and Pub Association, acting on behalf of the pubcos, have had nearly ten years to implement a credible system of self regulation. During this time six revisions of the Framework Code have been published. No version of the Framework Code has made any attempt to ensure that there is an equitable split of profits between licensees and pub companies. At a meeting of the Parliamentary Save the Pub Group the Chief Executive of the British Beer and Pub Association (BBPA) set out that "it is not the role of the BBPA to look at tenants' profit"[6]. It is this refusal to consider tenant profitability which has led to the continued failure of the self regulatory approach.

No version of the Framework Code has made any effort to ensure a level playing field between tied and non tied leases. As such these Codes appear to have deliberately allowed a market distortion to continue. This has caused huge detriment to tied licensees as well as the potential viability of more than 20,000 pubs and the communities they serve.

Providing evidence to the Business Select Committee the Chief Executive of Enterprise Inns set out his view that: "The RICS guidance said that comparisons between tied tenants and free of tie tenants are about as relevant as between tied tenants and fish-and-chip shops. They are different businesses, and the comparisons should be made between businesses of a similar type."[7]

This view appears to be contrary to that stated in the Royal Institute of Chartered Surveyors published revised guidance which sets out "there is nothing within this guidance that should result in rents in one sector being set at any advantage or disadvantage to another" and that

[6] http://gregmulholland.org/en/article/2012/642498/mulholland-calls-for-statement-from-minister-on-self-regulatory-solution-following-admission-from-bbpa-that-they-have-no-role-in-tenant-profitability
[7] http://www.publications.parliament.uk/pa/cm201012/cmselect/cmbis/1369/11063003.htm

a "tenant may compare its own property with the circumstances of being free of a supply tie and consider the profit achievable under those circumstances."[8] Properly implemented these clauses should result in tied rents being set so that tied tenants are no worse of than if they were free of tie.

There is no prospect of self regulation delivering equitable business relationships whilst the British Beer and Pub Association believe that tenant profitability is not a matter they can get involved with and RICS guidelines are misinterpreted.

A Statutory Code

A Statutory Code is required to ensure the proper operation of the beer tie by the large pub companies. These companies have been the subject of extensive complaints from licensees who allege they have been treated very poorly. These allegations relate to specific instances of malpractice as well as claims that pubcos are systematically charging high rents and high beer prices without proper regard to market prices.

As part of preparing this submission, CAMRA hosted two roundtable sessions with tied licensees[9]. The dozen licensees attending these sessions provided extensive evidence on the relationship between large pub companies and their licensees. These individual case studies will be quoted throughout this submission to help demonstrate the need for a Statutory Code. Below are some short extracts from these sessions:

> *"They've created a commercial hole for me to pour my life savings into. I'm recognised by my pub company as an exceptionally efficient operator."*
>
> *"I had nowhere to turn. There was not one place where I could get all of the information and all of the advice that I needed."*
>
> *"There's no transparency on continual beer price increases way over market rate and rent."*
>
> *"The margins that they quote you are unrealistic."*
>
> *"The rental calculations are the issue. They inflate your food sales and they deflate the costs."*
>
> *"My business plan for the next year can be summarised in one word: survive."*

CAMRA believes that a Statutory Code is the only realistic means available to:

- reduce instances of malpractice

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[8] RICS - The capital and rental valuation of public houses, bars, restaurants and nightclubs in England and Wales RICS guidance note 1st edition (GN 67/2010)

[9] The two roundtable sessions took place on Tuesday 30th April 2013. Licensees who had previously contacted CAMRA or the All Party Parliamentary Save the Pub Group (for which CAMRA provides secretariat support) were invited to participate. CAMRA also issued an open invitation via its Facebook page.

- ensure that the rents and tied product prices charged by the large pub companies do not place tied licensees at a severe disadvantage to non tied licensees.

Case study: Broken promises showing the need for a Statutory Code

Val Spencer is the licensee at the Cock at Lavenham, an Enterprise Inns pub. She told us that she has been the victim of broken promises, incomplete and incorrect information which demonstrates the clear need for a Statutory Code of Practice to protect licensees in similar situations in the future.

Val said: "Enterprise told me they would invest £180,000 in my place and refurb it completely. The moment I signed they then told me 'only if you have a minimum purchase order, only if we can add £10,000 to your rent.'

"I put together an awesome business plan and they said 'this is fantastic we'll get it all done.' I bought it in November, we were to have shut in all of January and February. I stupidly didn't get it in writing first and everything disappeared. They have never spent a penny on the place."

"Enterprise provided little information to us [before I signed the lease]. Our barrelage figures were shown to us on a mobile phone. There's no list that says 'right, you're going to come into this business, see that list – that's what your business partner [the pub company] should give you. What they give you, I foolishly believed, was what I was supposed to have, actually it wasn't – it was 10% of what I should have had."

"I'd been in this business a hell of a long time before I bought this pub. I've been a landlady for 24 years. I knew the business would make money. I took no specialist pub advice because I didn't think I needed it."

CAMRA recognises that the pub sector is evolving and notes a trend towards franchise agreements. In some cases these pub franchises appear to be little more than a rebranding of standard tied agreements. The Code must ensure that pub companies cannot avoid compliance by simply rebranding agreements.

In other cases, there are sincere attempts to develop franchise formulas which include substantial support to licensees and where the licensee's return is based on a percentage of pub turnover. These pub franchises stand apart from franchises in other sectors because the pub companies own both the business concept and the properties. Therefore, in our view the Code should cover pub franchise agreements and require pub companies to ensure the business opportunities they are offering allow a fair chance for the licensee to make a profit.

Transfer between Pub Companies and Licensees

The benefit of these proposals will be to enable tied licensees' earnings to increase towards the level of free of tie licensees' ensuring the long term viability of these pubs and allowing greater licensee investment in their pubs. CAMRA believes that this transfer will be higher, though broadly in line with the Department's higher end estimate of £234 million.

The Department's best estimate of £102 million is very conservative. Firstly, the assumption that business support is worth £7,500 annually is based on evidence from pub companies who have an interest in inflating this figure to justify their business model. It is likely this inflated cost of £7,500 will include the costs of policing tied arrangements, property related costs and negotiation on rents.

Licensees at our roundtable sessions have been very forthright in telling us how little value can be placed on the business support provided:

> *"I have had 3 landlords in the 19 years of being at my pub. I have had some 23 Business Managers and at least 50 Business Directors or equivalent in the same period. I have yet to meet one of these people with any proactive business skills or for that matter with any fundamental understanding of their business."*[10]
>
> *"As far as I'm concerned the BDM is not there to help you out, he's just there to sell you products."*
> Licensee, pubco tied pub, Burnham
>
> *"Part of this is BRM support. I haven't seen mine for years."*
> Licensee, pubco tied pub, Woking
>
> *"For 23 years I got no help and no support. I never saw the area manager."*
> Licensee, pubco tied pub, Liverpool

The value of support will vary greatly from licensee to licensee. To some licensees, the value of business support will be nil as the support offered will have no relevance to their business. In 2010, the Federation of Small Businesses surveyed 64 tied licensees and found that only 32% considered the business support provided helpful[11]. We note with interest the comment in the consultation that Sky TV is offered free of charge. This is not something we are aware of but even if this is the case it will only be of value to those pubs which take up to offer.

Previously, CAMRA has suggested a nil value should be placed on business support provided by the pub companies. This was based on the difficulty of estimating the true value and the fact that for some licensees the value would be nil. However, based on further challenging of the pub companies by the Office of Fair Trading and a more robust analysis we are content to recognise that an annual value of £1,500 may be more appropriate.

As a percentage of turnover, pub rents on tied and non tied pubs are broadly in line. A CAMRA survey in 2010 indicated that tied rents were 9.5% of turnover and free of tie rents were 9.2% of turnover.[12] The latest ALMR 2012 benchmarking survey indicated that tied lease rents were 12.3% of turnover and free of tie rents 10.7%[13]. This evidence establishes that the claim high tied prices are fully compensated by low rents is untrue. This evidence

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[10] FSB Publican Survey, 2010
[11] FSB Publican Survey, 2010
[12] CAMRA OFT submission
[13] Stats available at http://www.almr.org.uk/hotpdfs/194.pdf

therefore supports the decision by the Department to conclude in its analysis that high tied prices are not compensated for by lower rents.

The Department relies on the Office of Fair Trading's analysis which indicates that tied prices are only 30% higher than free market prices. This data was provided by the large pub companies and was justified on the basis of discounts provided to some licensees.

In 2010, CAMRA undertook a comprehensive comparison of tied and non tied beer prices[14] and found the differentials as follows:

• Tied licensees are paying between 60% and 70% more for Fosters
• Tied licensees are paying between 51% and 59% more for Kronenbourg
• Tied licensees are paying between 50% and 64% more for Carling
• Tied licensees are paying between 50% and 67% more for the lowest price real ale 3.5% abv+

The table below shows a comparison based on current price lists:[15]

Product	Wholesale Price	Pub Company Price	Percentage difference
Fosters Keg 4% 11G	£84.99	£150.22	77%
Heineken Keg 11G	£114.99	£177.98	55%
San Miguel Keg 11G	£106.99	£178.75	67%
Guinness 11G	£108.99	£162.46	49%
Courage Best Cask 9G	£69.99	£104.21	49%

CAMRA's calculation of the likely transfer between pubcos and licensees is below. This calculation assumes a difference in tied and non tied product prices of 50%.

Wet Rent	Business Support	Average Transfer	Total Transfer
£25,800	£1,500	£12,200	£292 million

An alternative means of calculating the likely transfer would be to compare the incomes of those in tied and non tied pubs. The CGA survey, detailed in Appendix One, provides data on licensee incomes in bands. Taking the midpoint of each of these bands indicates that the average free of tie lessee earns £24,800 compared to an average pubco tied licensee earning £11,785. Our survey data suggests that pubco tied licensees are around £13,000 a year worse off than free of tie lessees[16]. This data provides a degree of validation for our estimate that the average estimate will be around £12,200 and the total transfer will be £292 million.

[14] Free of tie prices are based on prices provided by www.pubsupermarket.com (url no longer working) and prices extracted from pubco price lists and TBS Waverley price lists
[15] Price lists supplied to CAMRA by licensees
[16] Please note that this figure has not been adjusted to take into account the lower average turnovers of pubco tied lease pubs.

The 500 Pub Threshold

CAMRA believes that companies with fewer than 500 pubs should be exempt from the Statutory Code and the Adjudicator. A threshold of 500 pubs is appropriate as this is around 1% of the UK pub market. Companies with a market share of below 1% are considered to have minimal market power. Market forces will compel the smaller companies to ensure the agreements they offer compare favourably to those offered by larger companies.

There is a big difference between lease agreements principally operated by the large pub companies and traditional brewery tenancies operated by regional brewers. Traditional brewery tenancies tend to be short term and present less risk as these agreements are much easier for licensees to exit from. In contrast, large pub companies offer longer term leases which present a much greater risk as licensees wishing to exit face the loss of any lease premium paid, dilapidation charges and are potentially liable to pay rent for the unexpired term.

Furthermore, large pub company leases tend to place the full burden for repair and upkeep of the premises on the licensee, whereas in the case of traditional brewery tenancies the brewers take on that risk.

The regional brewer tied house system allows these brewers to secure market share for their brands. In the UK the tied house system has been crucial to the survival of the regional brewers. The value of the tie to regional brewers is demonstrated by the virtual extinction of medium sized brewers in the USA where tie agreements are not permitted.

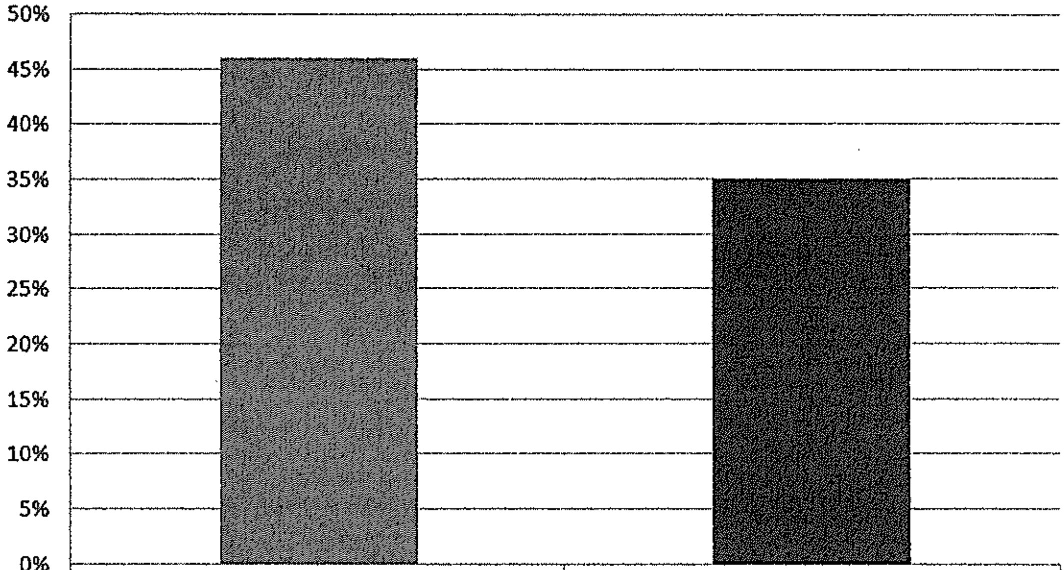
Fewer than 1% of pubs operated by the regional brewers are operated on lease agreements.[17] Given that lease agreements are where the greatest risk of abuse lies it would be grossly disproportionate to apply the Code and Adjudicator to companies with fewer than 500 pubs.

As set out in Appendix One, regional brewer tied licensees earn more than pubco tied licensees and are less likely to feel negative about their tied arrangement. Regional brewer tied licensees are significantly more likely to earn more than £15,000 a year than pubco tied licensees.

Additionally, our survey indicates that regional brewer tied pubs are more successful businesses than pubco tied pubs as shown by the graphs below:

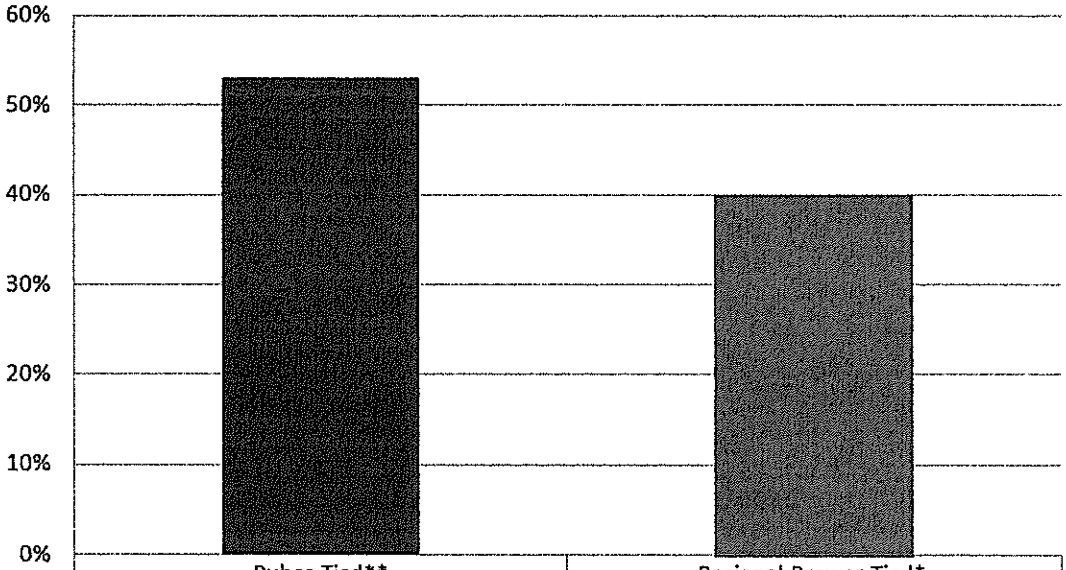
17 http://ec.europa.eu/competition/consultations/2009_vertical_agreements/independentfamilybrewersbritain_en.pdf

PUBS WITH TURNOVER OF MORE THAN £300K



Regional Brewer Tied*	Pubco Tied**
46%	35%

PUBS UNDER FINANCIAL PRESSURE



Pubco Tied**	Regional Brewer Tied*
53%	40%

Code Principles

To be effective, the Code must have the following two core principles at its heart:

- fair and lawful dealing
- the tied tenant should be no worse off than the free of tie tenant.

The principle of fair and lawful dealing is vital in dealing with the numerous individual cases of abuse and malpractice. There is clear public support for action to entrench principles of fairness in the pubco-licensee relationship. CAMRA commissioned independent consumer research in June 2011 which found that 64% of all adults think it is unfair that "at the moment public house licensees are tied into contracts that prevent them from buying beer on the open market at competitive prices."[18]

Many pubco tied licensees earning below minimum wage (particularly the 57% of tied licensees earning less than £10,000 a year) currently can't afford access to the law. We were told by licensees at our roundtable sessions:

> *"I've lost £100,000 of my own money."*
> Licensee, pubco tied pub, Suffolk
>
> *"My business partner and I drew just £5,500 each last year."*
> Licensee, pubco tied pub, Surrey
>
> *"We're turning over nearly £250,000 and working 24/7 but we don't see any of it."*
> Licensee, pubco tied pub, Burnham
>
> *"If a product [i.e. barrel of beer] is faulty and you've used a bit of it, it's carted off, examined and judged and then they can refuse to give you a refund. So they don't refund what you've already paid for, you lose your profit and they even charge £40 for taking it away."*
> Former licensee, pubco tied pub, Kent

[18] CAMRA Tracking Omnibus Survey June 2011

Case study: Fairness

Alison Pilkington told us that she was the licensee at the Black Horse and Hoodens, an Enterprise pub in Kent until she surrendered her lease in April 2013. Alison worked 80 hours a week at the pub, but was still unable to make a living.

Alison said: "I managed to build up the pub from nothing – it was a mess but I got it Cask Marque accredited, in the Good Beer Guide and made it a good wholesome family pub. The pub went from £0 turnover to £250k turnover. But then our rent started going up, and our beer prices, so we ended up 65p a pint on Fosters more expensive than all of the competition in the village who were all freehold.

"Despite this we weren't making any more than 5p a pint profit – draught products were our loss leader. Having spent 70/80 hours a week building the trade up, the costs were so high that we had to slim down staff costs so I was still doing 70/80 hours a week. I never stopped working – it was killing me".

The CGA Survey found that tied licensees are significantly worse off than free of tie lessees, with 60% of free of tie lessees earning over £15,000 a year, compared with just 20% of pubco tied licensees.

This evidence that tied licensees are significantly worse off than free of tie lessees demonstrates the clear market failures of the pubco model. If the market was operating correctly, there is no logical reason that a tied licensee would be so much worse off than a free of tie lessee.

Balancing Risk and Reward within the Statutory Code

<u>Right to Request an Open Market Rent Review</u>

It is essential that licensees are able to request an open market rent review, with redress to the Independent Adjudicator if this is not performed by the pub company in a fair and competent manner.

CAMRA supports the provision for licensees to trigger an open market rent review if they have not had one in five years. This is necessary to prevent pub companies moving to contracts which deny their licensees the right to rent reviews, thereby circumventing improved licensee understanding of their rights and better rental guidance.

When a licensee takes on a new lease, the rent paid is the product of negotiation between the licensee and the pub company, rather than an independently assessed rent that is guaranteed to reflect open market rates. In many cases the only opportunity for an independently assessed rent, in which the licensee can ensure the rent they pay is fair, is at rent review.

The provision for licensees to trigger an open market rent review if the pubco significantly increases the price of tied products is especially important given the ability of pubcos to change prices unilaterally, in the face of which licensees currently have no right of redress.

Licensees have vividly described to us just a handful of the current issues with pubco rent calculations:

> *"Our lease was upwards only. At rent review they assessed it and said our rent should now be £47,000. My chartered surveyor said it should be £17,000."*
> Licensee, pubco tied pub, Burnham

> *"My rent as a percentage of turnover has gone from 10% in the first year to nearly 15%. They wanted to put the rent up to £48,000 last year on a turnover of £326,000 and at that point I said I'm going to stop trading, this is silly."*
> Licensee, pubco tied pub, Basingstoke

> *"My rent review – I had no notice, you're supposed to get 6 months and I was told 'we're going to move your rent from £30,000 to £80,000'. I received this out of the blue... Their second guess on the back of a fag packet was £60,000, then £52,500. I ended up paying just under £38,000."*
> Licensee, pubco tied pub, Berkshire

> *"They said they were going to double the size of the kitchen so we could start doing food properly. They didn't. The rent we agreed was based on the fact we would have a kitchen as well, but they didn't do it."*
> Licensee, pubco tied pub, Berkshire

<u>Increased Transparency</u>

Licensees need to be able to fairly and openly access information to ensure they are being treated reasonably and are no worse off than they would be if free of tie.

Transparency is key to the success of the Code of Practice. Shadow Profit & Loss accounts must be justified with evidence including explicitly set out turnover, gross profit costs and the divisible balance. Any business support provided must be listed, quantifiable and genuine. Currently, potential licensees continue to be led into agreeing unsustainable rents based on overly optimistic pub company Shadow Profit and Loss accounts using insufficient evidence.

Licensees (and prospective licensees) should be able to compare tied shadow Profit and Loss accounts with free of tie Profit and Loss accounts, in order to aid transparency and ensure they are no worse off than if they were free of tie. Again, the key is to ensure that both Profit and Loss accounts are backed up by evidence.

Prospective new licensees are most at risk from exploitation. When marketing to new entrants, pub companies must provide full, genuine information and not misleading guesswork. The current situation, where prospective licensees may be staking their livelihoods on false hopes of potential profitability must be stopped.

Our evidence demonstrates that this transparency and openness is currently lacking:

> *"There is no transparency on continual beer price increases way over market rate and rent."*
> Licensee, pubco tied pub, Berkshire

> *"If they'd said to me 'you do realise that you can drive to Rebellion brewery and buy your beer at £70 for 72 pints but we're going to charge you £150' then how many*

people would say 'hang on a minute that's not right is it?'"
Licensee, pubco tied pub, Berkshire

"No-one explained Brulines and potential fines to me when I took on the pub."
Licensee, pubco tied pub, Berkshire

"We asked for a rent review, held various meetings and they said no. They finally came up with a shadow profit and loss. The shadow P&L given was for a rent of £65,000. We were paying £75,000 at this point which then went up to £79,000 with RPI. This is the first time I got this breakdown after years and years of asking."
Former Licensee, pubco tied pub, Brighton

"I wasn't aware I was signing up to a business model that would require me to give in excess of 90% of the profits of my business to my pubco."
Licensee, pubco tied pub, London

<u>Guest Beer Option</u>

The introduction of Small Breweries' Relief in 2002, growing consumer preference for local products and the enthusiasm and commitment of hundreds of entrepreneurs has seen a huge increase in the number of UK small brewers. There are now over 1000 independent brewers in the UK compared to just over 440 in 2002.

Despite the growth in the number of small brewers the pub market is substantially foreclosed to them because they are unable to supply the minimum volumes, discounts and logistics demanded by large wholesale and pub owning companies.

The SIBA Direct Delivery Scheme (DDS) has had some success in enabling local brewers to deliver direct to pub company pubs. The growth of this system however is hampered by the margin demanded by pub companies, which reduces the profitability of small brewers and means that the prices charged to consumers for these beers can be comparatively high.

A licensee told us:

"You can access a reasonably large range of ales through the SIBA scheme, but to use it you get charged an extra amount, on top of the extra you're already paying for a cask so it's very expensive. To have a real ale pub you're at even more of a loss with your pubco. My main SIBA beer that I stocked in my pub, I could have got something £30-40 less a cask if I'd gone for something mainstream. Every now and then I'd get an invoice by mistake from the local brewer of my SIBA beer showing I could have got it for £60 rather than £130. You're paying the extra that the pubco wants, plus the extra that SIBA want. As a result local breweries can't stock pubco pubs unless the publican is willing to finance it."
Former licensee, pubco tied pub, Kent

CAMRA therefore welcomes the Government's intention to include a guest beer option as a provision in the Code of Practice. A guest beer option would be a simple and straightforward measure which would address the problem of the UK pub market being substantially foreclosed to small and medium size brewers.

However, to avoid unintended consequences we urge the Government to restrict the guest beer right to real ale. Both small and regional real ale brewers lack the negotiating power, economies of scale and ability to market their product heavily to licensees that are enjoyed by the global brewers. As a result, a guest beer option that is open to all beer would likely result in the market being flooded with global brewers' products. This would contradict the Government's stated intention to strengthen community links by allowing licensees to stock locally produced brands that are popular with local consumers.

Restricting the guest beer option to real ale has clear benefits to licensees, consumers and independent brewers. Hundreds of real ale breweries currently locked out of supplying a large proportion of their local pubs would see their growth prospects advanced and benefit from a wider access to market.

Licensees would benefit as a guest real ale option would provide a modest boost to their profitability, and would expose large pub companies to a degree of competition on wholesale beer prices, thereby driving down prices on other products. The right to stock a wider range of products is being called for by licensees, in response to pub goers currently denied choice and a wide availability of locally produced beers:

> *"A fellow licensee's pub backs on to Wychwood brewery. He can see the brewery from the pub. He cannot get Wychwood products in his pub because the pubco says there is no delivery supply chain. People come to the brewery tours at Wychwood, then go to the nearest pub and he hasn't got their product because he's not allowed to sell it. That is the impact of the pubco tie."*
> Free of tie licensee, Colchester

> *"Ale drinkers in Sussex have been boycotting Greene King for years, so we told them that we needed a local beer and they eventually sorted out Dark Star Hophead. We were paying exactly twice the price than we would pay directly from the brewery."*
> Former Licensee, pubco tied pub, Brighton

> *"SIBA for me is a personal big problem. I would love to stock the few SIBA ales that I'm allowed to have (and there isn't a lot) but there is no discount available."*
> Licensee, pubco tied pub, Basingstoke

> *"I do buy local products because that's where the growth is and it's right and proper to support local business, but there's no incentive. I get no discount on them. I'm actually disincentivised to buy locally."*
> Licensee, pubco tied pub, Berkshire

> *"I have a local brewery next to me, I can buy a barrel of 3.7% from him for £62, the pubco buys it from him for £64 and charge me £120. The brewer is disgusted."*
> Licensee, pubco tied pub, Basingstoke

> *"I'm 2 miles from Fullers in Chiswick and I have had to seriously consider my stocking of Fullers beers because I can't make a margin. I can buy Cornwall beer and make a better margin."*
> Licensee, pubco tied pub, London

"We were 40p a pint more expensive than our other competitors in the town, and after this price rise we had to stick another 10p on."
Licensee, pubco tied pub, Surrey

"We charge about 30p a pint more than any other pub in the village."
Licensee, pubco tied pub, Burnham

"A barrel of Fosters has gone from £77 to £90 in the free trade since I opened. It's gone from £107 to £151 from the pubco."
Licensee, pubco tied pub, Basingstoke

CAMRA recognises that competition concerns have been raised regarding restricting the guest beer option to real ale. However, CAMRA does not see any merit in these concerns, as the guest beer option is relaxing barriers to market entry rather than increasing them.

Alternatively, consideration could be given to a guest beer option that would avoid any perceived complications with EU competition law, by defining a guest beer as a beer brewed by a brewer anywhere in the world with an annual production below 200,000 hectolitres. This reflects the maximum production limit allowed through the EU's small breweries' relief scheme.

A Mandatory Free of Tie Option

"All we want is an open market rent and free of tie."
Licensee, pubco tied pub, Burnham

A mandatory Market Rent Only (free of tie) option for licensees tied to large pub companies is the simplest way to allow market forces to work, and remove the current disadvantage to tied licensees compared with free of tie lessees. It is essential that rents offered alongside free of tie agreements are at a fair, open market rate.

Among the benefits of a Market Rent Only option would be that pubcos would be incentivised to act in a competitive manner and make their tied deals fair and attractive, as failure to do so would result in a high proportion of their tied licensees choosing to become free of tie. We would anticipate that as pub companies improve their deals to better compete with new free of tie options, only a small minority of existing licensees would opt to go free of tie.

Too many licensees are substantially worse off because of their agreement with their pub company:

"Over the year September 2011- September 2012 the differential between what I paid to my pub company and what I could have paid on the open market for all my drinks was £41,650. Our rent on that property is £42,000 – almost the same as the saving I could make if I was free of tie."
Licensee, pubco tied pub, Surrey

The breakdown by product in this example is as follows:

Product	Tied/Free of Tie Differential
Draught Beer	£31,097.45
Spirits	£2439.72
Bottled Beers and F.A.Bs	£1908.51
Soft Drinks	£1048.43
Wine	£5156.12
TOTAL	£41,650.32

A Market Rent Only option would substantially increase licensee profitability, enabling licensees to invest in growing and developing their business, and enhancing their consumer offer.

> *"We'd see more money being spent on the pubs, because at the moment licensees can't afford to spend money on their pubs."*
> Licensee, pubco tied pub, Liverpool

> *"Should I be free of tie rather than being tied I would be £45-£50,000 better off per year."*
> Licensee, pubco tied pub, London

> *"We'd make £50,000 more just on beer. What the pubco's don't get is how much of that money I would then reinvest in my business. This is why pubs are dilapidated."*
> Licensee, pubco tied pub, Berkshire

A Market Rent Only option for tied licensees would benefit brewers currently locked out of selling to a high proportion of their nearest pubs because they are tied, and would address consumer demands for local produce. Licensees would be free to purchase beer at a fair market price, as opposed to paying substantially more than they should:

> *"I'm fighting for the free of tie option and the right to buy at a fair market price. I lose customers now because of the lack of ale choice. Being free of tie on one beer will not help me: I need free of tie to survive. I have people opening my door, looking at my [real ale list] board, not liking the old fashioned, bog standard beers that are on and leaving."*
> Licensee, pubco tied pub, Liverpool

> *"I pay £79 for Woodfordes from my pub company, but I know I could get it bought to my front door by Woodfordes for £60. And I have the maximum possible discount."*
> Licensee, pubco tied pub, Suffolk

> *"For Rebellion [brewery's] Mutiny I pay £150 for 72 pints, where I can go and get it for £75 from the brewer."*
> Licensee, pubco tied pub, Berkshire

> *"Price wise the difference is absolutely crazy. John Smiths is £133, but you can get it for £82 wholesale. Kronenbourg is £170, you can get it for £100. It's not little amounts – it's lots."*
> Licensee, pubco tied pub, Burnham

"A real benefit of free of tie for me would be that I wouldn't have to buy all my beer in one go. If I buy products on Monday then find I've run out, I could go down to Bookers and buy more instead of having to buy 3 barrels of Fosters, 2 Kronenbourg and have a dead week and still have to pay for the whole lot. There's also the local breweries we're not allowed to buy beer from at the moment."
Licensee, pubco tied pub, Burnham

We would still expect the majority of new pubco licensees to be on tied terms, as pubcos would favour applicants willing to be tied. It's therefore vital that at their first rent review they have the opportunity to make a genuine, fair and open assessment of their agreement and ensure they are getting the best possible deal.

In order to avoid potential instability within the major pub companies, CAMRA would be supportive of the major pub companies phasing in genuine free of tie options over a five year period at rent review, staggering the impact and giving them time to make tied agreements attractive.

It is clear that statutory intervention is required in order for pubcos to offer their licensees a genuine free of tie option, accompanied by an open market rent review. Speaking at a meeting of the all-party Parliamentary Save the Pub Group in June 2011, Simon Townsend, Enterprise's Chief Operating Officer, said:

"I will go straight to the nub of the issue. We have not included the availability of a completely free of tie option within our code of practice."

Case study: Tied/Free of Tie Comparison

Sheena Valentine runs the Victoria Inn in Colchester, Essex – a private leased free of tie pub. Previously she was a licensee with Punch Taverns in Malden, Essex.

She told us that her previous Punch Taverns pub was turning over £250,000 - £300,000 per year, but Sheena was unable to draw a salary despite working 70 – 80 hours a week. Sheena was eventually evicted from her previous pub by Punch Taverns.

Sheena's current pub, the Victoria Inn is a wet led pub, which doesn't do food. They pay a dry rent only to their landlord, turnover is £6,500 - £7000 a week and they are thriving. Sheena said "I still work a ridiculous amount of hours but the difference is now I'm doing it for my own benefit, not the benefit of a pub company"

"There is life after the pubcos. When you're free to buy your beers and insurance and everything else from where you choose to buy it from and not at false prices from the pubco, you can make a living, you can make enough to reinvest in your pub, you can have a salary, you can take holiday."

Adjudicator

CAMRA fully endorses the need for an independent Adjudicator to enforce the Statutory Code, and give licensees long-awaited access to justice. We welcome the proposed powers of the Adjudicator to arbitrate individual disputes, and carry out investigations into widespread breaches of the Code. An effective arbitration function is essential, as demonstrated by the lack of licensee confidence in PIRRS and PICAS.

> *"I had nowhere to turn. There was not one place where I could get all of the information and all of the advice that I needed"*
> Licensee, pubco tied pub, Woking
>
> *"The difference between statutory codes and self regulation (which PICAS is), is it won't change the amount of work that has to be done, it won't change the fact you have to get the pub company to look into your complaint and spend 6 weeks pouring over it. The difference is a statutory code will be much tougher with these people who've got flagrant disregard to your wellbeing and your business."*
> Licensee, pubco tied pub, Berkshire
>
> *"You have to exhaust all internal processes first, even though I'm no longer with my previous pub company and our BDMs are no longer there. The people I'm complaining about, I now have to go through an internal grievance procedure with."*
> Former Licensee, pubco tied pub, Brighton
>
> *"We started our complaint regarding the promised rent reduction in September, and there was no resolution until the end of November – they're supposed to do things within 28 days."*
> Former licensee, pubco tied pub, Kent
>
> *"They did a refurb which put £12,000 extra on my rent. When I came back to the pub I found they'd put Brulines in, they'd taken away my guest beer option."*
> Licensee, pubco tied pub, Liverpool

We welcome the proposed investigatory function of the Adjudicator, including the power to initiate their own investigations and act on information provided by third parties, and consider broad patterns of behaviour by pub companies. This has been lacking until now. Strong sanctions are also vital if the Adjudicator is to have real teeth.

Part of the role of the Adjudicator should be running a campaign to ensure licensees know their rights. Licensees' discussions and negotiations with their pub companies would be substantially fairer if licensees were able to refer to a document summarising their rights. This would address some of the issues of exploitation where licensees are persuaded to agree to new or amended agreements without knowing their rights.

We agree that the proposed industry levy is the appropriate way to fund the Adjudicator. We expect the cost of this to be borne by the pub companies as the cost per pub would be infinitesimally small. However, even if the pub companies transfer this cost to the consumer and we split the cost of the Adjudicator across every pint sold in a pub in the UK, this works out as just 0.006p a pint.

Conclusion

Our statistical evidence and case studies have clearly shown that the Government must press ahead with its plans to deliver a fair deal for licensees tied to the big pub companies by introducing a Statutory Code of Practice, alongside a powerful industry Adjudicator. These measures should be brought forward as soon as possible before more hard working tied licensees lose their livelihoods.

CAMRA believes that the best way to deliver the Code's principles of fair dealing and ensuring tied licensees are no worse off than free of tie lessees is for licensees to have the option to pay a fair Market Rent Only to their pub company. This option should be offered alongside a guest real ale right, transparency of information and the right for tied licensees to request an open market rent review.

These proposals will result in greater investment in Britain's pubs, an improved consumer offer and a sustainable future for the pub sector.

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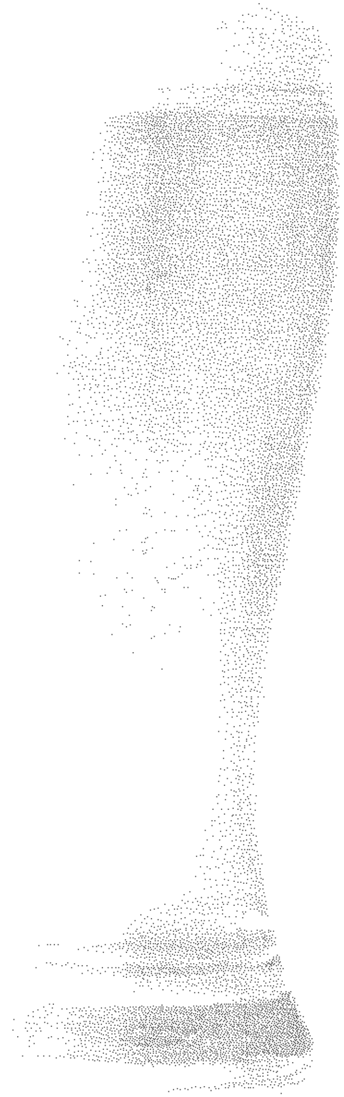
Pub Co Licensee Survey: Methodology & Key Findings Overview



Report produced by CGA Strategy for CAMRA

13th June 2013

Contents

CGA STRATEGY

CAMRA Pub Tie Survey – History/ Context

CGA STRATEGY

- As an independent on trade research consultancy, CGA Strategy was initially commissioned by CAMRA at the beginning of 2011 to produce a telephone survey to a randomly selected sample of licensees on the subject of the effects of the pub tie
- The project concept and methodology was based upon CGA's work for the then Business & Enterprise Select Committee (BEC) survey of 2009 reduced slightly in complexity and size and additionally covering freehold and free of tie outlets
- The remit and project scope provided to CGA by CAMRA was to offer an independently verified and statistically valid view of current licensee sentiment toward the pub tie
- The survey undertaken in April/ May of 2013 was a close replication of that produced for CAMRA two years ago with a marginally larger overall set of results plus an additional sample of free of tie lessees for comparative purposes

Methodology statement

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- A random total sample of over 850 outlets, of which 547 were leased/ tenanted pub co (in comparison to 1,000 within the 2009 BEC survey) was used – this remains a statistically robust number

- The sample was broken down into different tenure types for comparative purposes and was proportionally constructed by operator type and TV region to give as broad and fair a representation as possible

- The turnover and income/profit questions were based on licensee declarations split into a number of standardised bands – again using corresponding wording and options as agreed with BEC and repeated in the 2011 CAMRA project

- Overall, the survey undertaken for CAMRA in May 2013 follows a standard set of criteria as used by CGA in multiple projects in recent years

- The following additional information is designed to provide a greater level of transparency in relation to the survey undertaken and provide suitable contextual background to the output

Statistical Validity Considerations (1)

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- CGA were able to poll a valid and representative number of outlets across all types and companies
- Each tenure type included a statistically robust number of representative outlets in the context of the individual sample size
- Based on the number of results, CGA was able to provide a solid statistical base in line with the methodologies used by BEC and following the same requirements as the CAMRA commission in 2011
- The findings are robust as output from a standardised telephone survey

Statistical Validity Considerations (2)

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Statement on the reported revision to the initially published CAMRA finding on the CGA pub tie survey:

- Repositioning 51 of the regional pub company sample points into the national pub company classification reduces the sample to 92 outlets, equating to 4.4% of the total estates of the regional pub companies targeted
- While the sample falls further given the reticence of some respondents to answer the questions around income, the output can still be taken as a strong indicator of sentiment
- Statistically, while the smaller sample does not provide an optimal standard error rate the results are still classified as a 'satisfactory to good' indicator of the overall licensee view and a fair reflection of the responses and sentiments included within the survey answers – specifically on turnover and revenue
- In addition, the comparisons with the revised sample forecasts and the original larger regional pub co sample (and compared against the overall 866 sample responses) show only a small level of variation in overall results across all key questions
- All trends and proportionality of responses remain very similar. This helps to further confirm the validity of the current sample
- The 15 different regional brewer/ pub companies included within a wide geographical base further demonstrates the relative strength and integrity of the overall survey sample methodology

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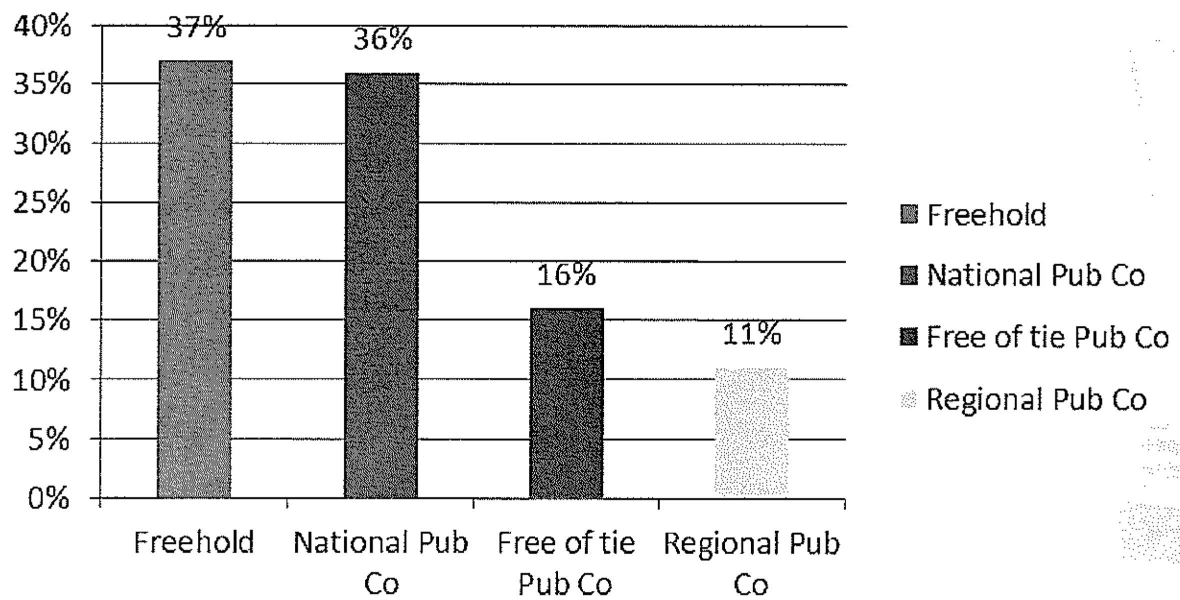
CAMRA Pub Tie Survey – May 2013

Sample Structure Overview

Contextual Breakdown of Sample Source: By Operator Type

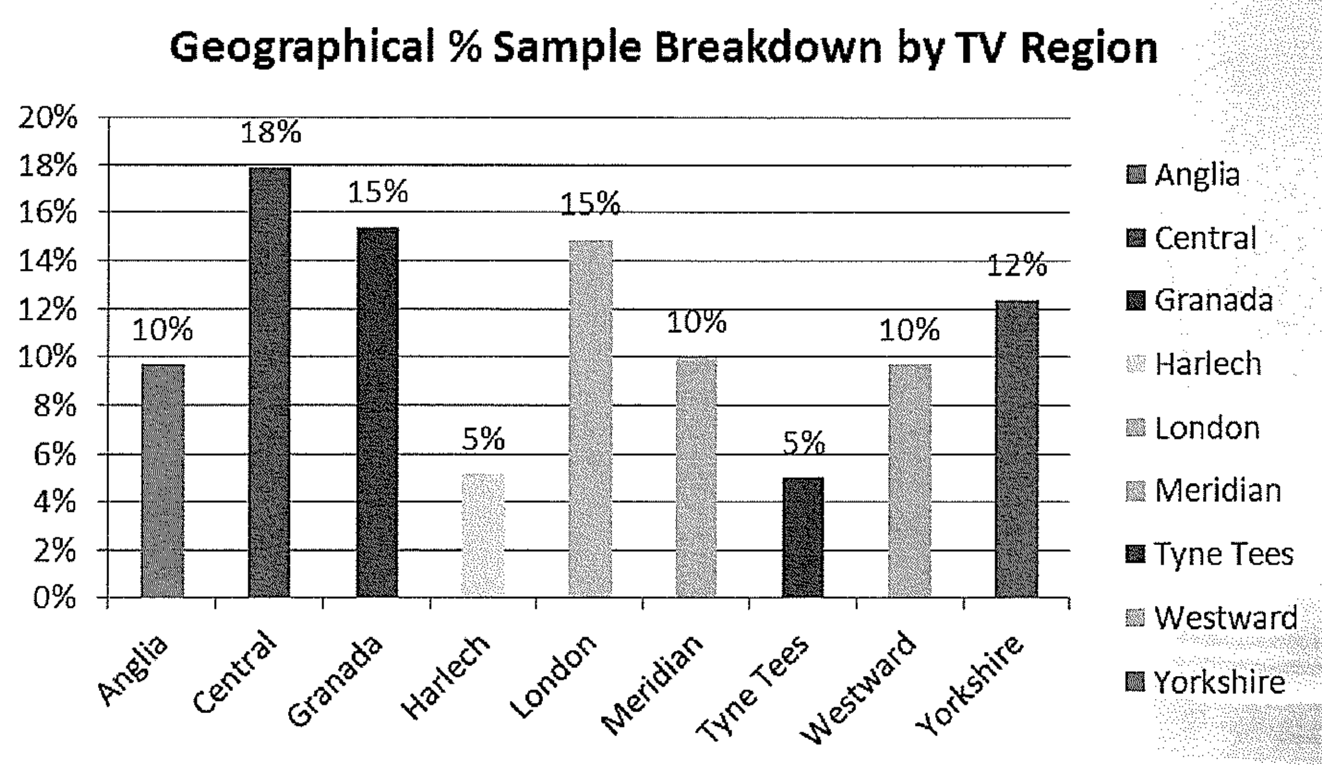
- The key to the sample used for this survey was to produce a proportionally fair – and statistically valid - set of responses based on operator type and geography within the limitations of the project brief
- The sample was less tightly structured than the BEC survey taking into account that the key CAMRA remit was to look at Pub Companies >500, Pub Companies <500 and Free of Tie/ Freehold outlets generally, not individual pub companies or operators
- Using the above criteria the main call sample produced a total of 866 responses broken down accordingly by operator type and ensuring fair representation of operator companies – where applicable - across all tenure types

Operator Type % Sample Breakdown



Contextual Breakdown of Sample Source: By Geography

- It is also crucial to ensure that an equitable distribution of sample responses are produced using a broad geographical base
- CGA used the standard 9 TV Region geography breakdown – for England & Wales - to produce the results
- This was created using a proportional number of sample outlets per region



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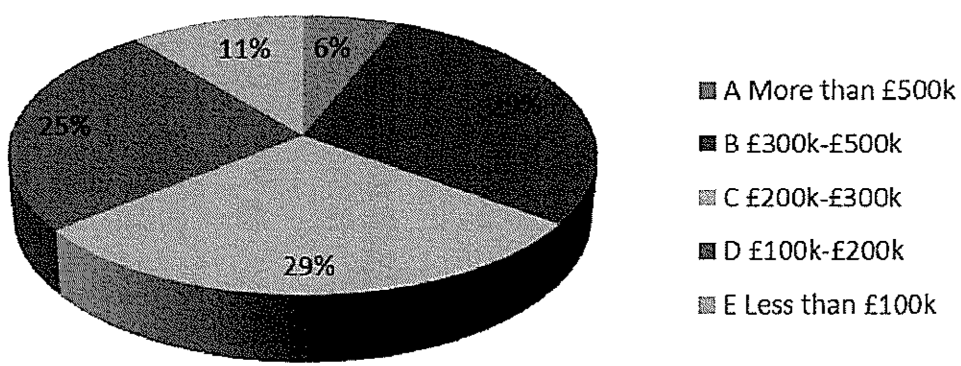
CAMRA Pub Tie Survey – May 2013

Key Results Findings

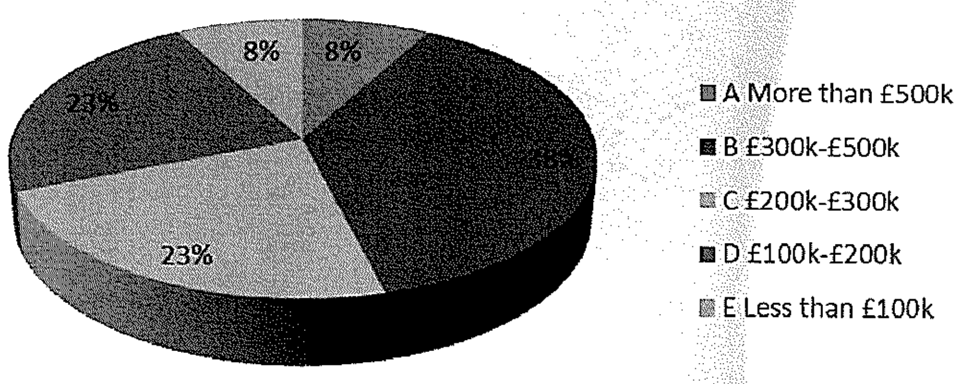
Annual Turnover: Pub Company

- Results were based on the following number of individual licensee responses:
  - National Pub Co: 247
  - Regional Pub Co: 74
- Proportionally the number of respondents with a turnover of between £200-300k and £300-500k show the greatest % differences between national and regional pub companies

National Pub Co Results



Regional Pub Co Results



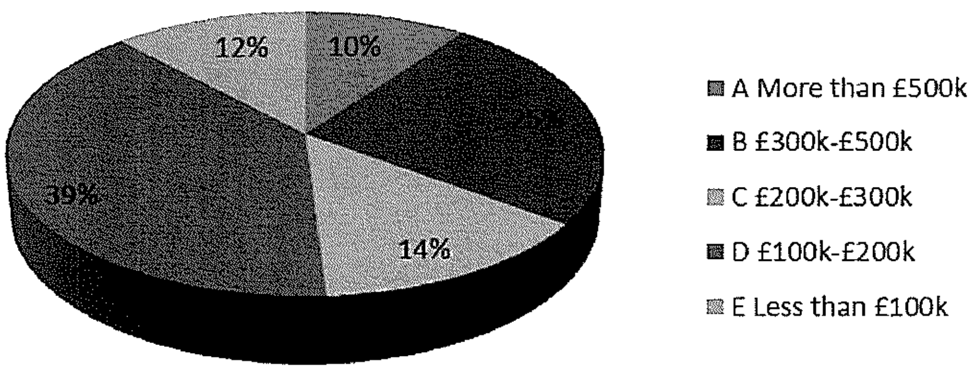
Annual Turnover: Free of Tie

CGA STRATEGY

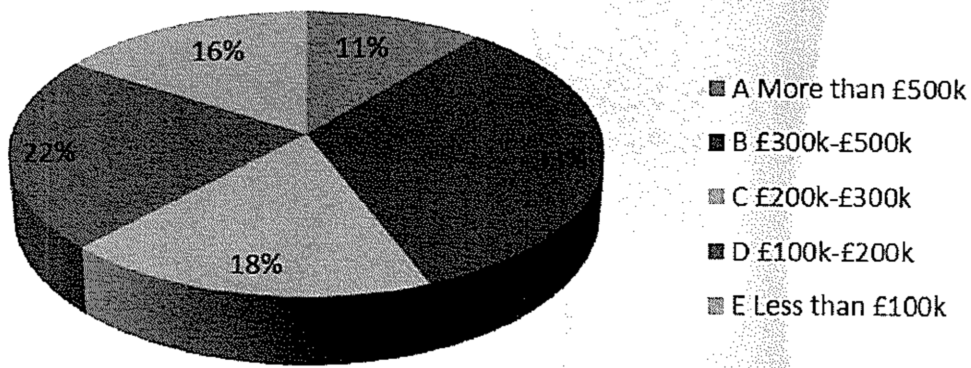
- Results were based on the following number of individual licensee responses:
  - Freehold Pubs: 236
  - Free of Tie L/ T Pubs: 83

- Free of Tie L/T pubs generally provided a higher positive response than Freehold at £300k and above – likely due to smaller overhead costs in comparative terms

Freehold Pub Results



Free of Tie L/T Pub Results

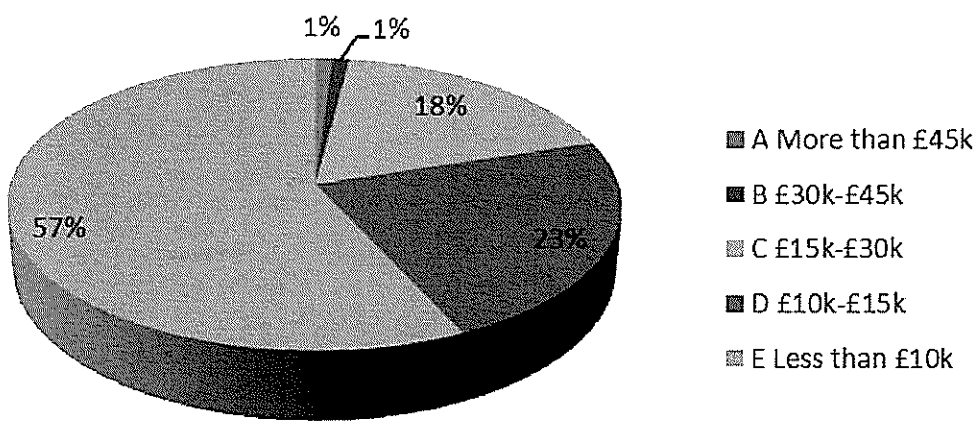


Personal Earnings: Pub Company

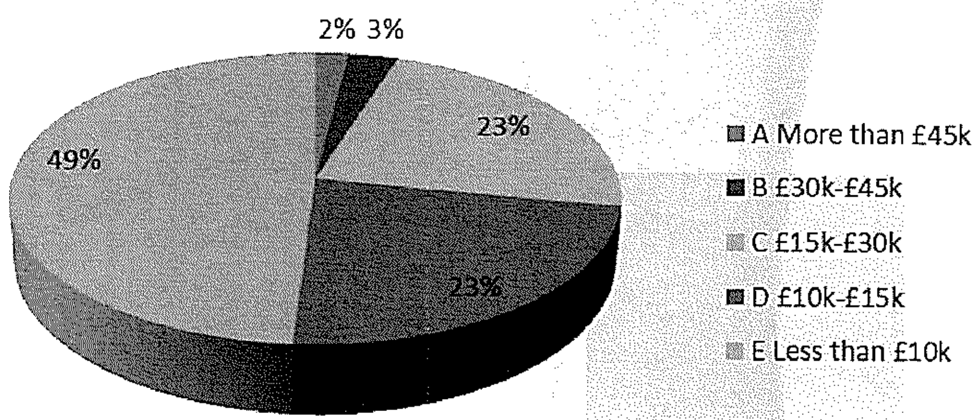
CGA STRATEGY

- Results were based on the following number of individual licensee responses:
  - National Pub Co: 175
  - Regional Pub Co: 57
- 80% of national pub co respondents claimed net earnings of £15k or less compared to 72% of regional pub co responses

National Pub Co Results



Regional Pub Co Results

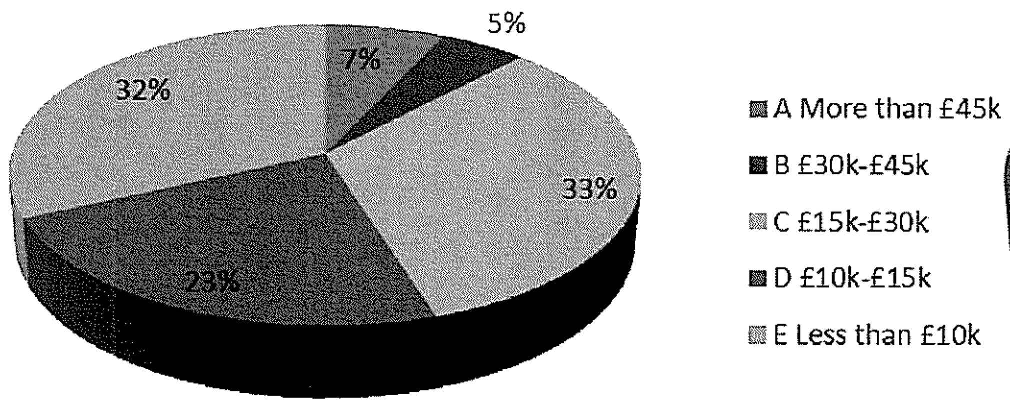


Personal Earnings: Free of Tie

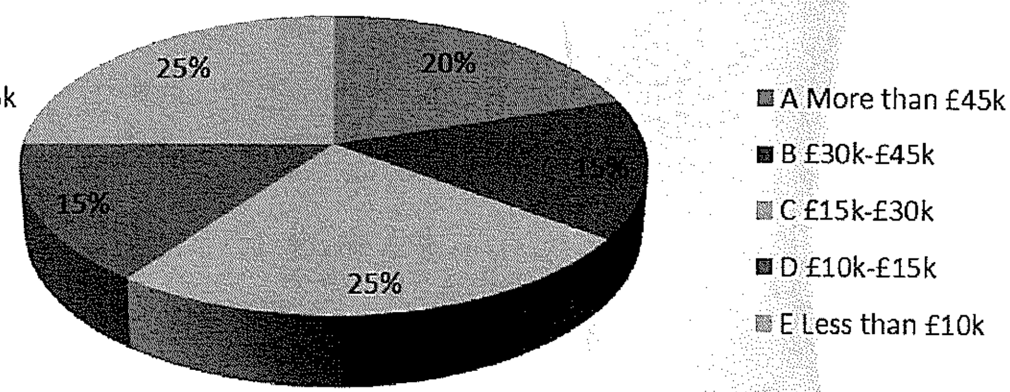
CGA STRATEGY

- Results were based on the following number of individual licensee responses:
  - Freehold Pubs: 153
  - Free of Tie L/T Pubs: 75
- Within freehold and free of tie pubs the percentage earning £15k or less falls to 56% for freehold and 40% for free of tie lessees

Freehold Pub Results



Free of Tie L/T Pub Results

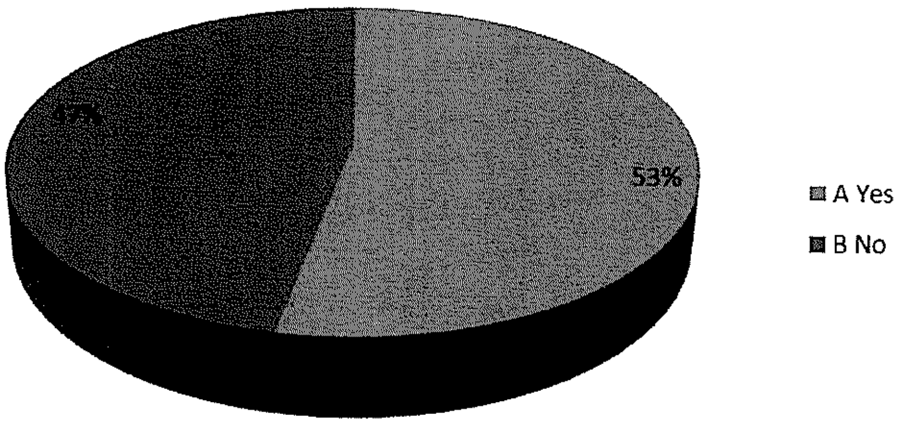


Financial Struggle Sentiment: Pub Company

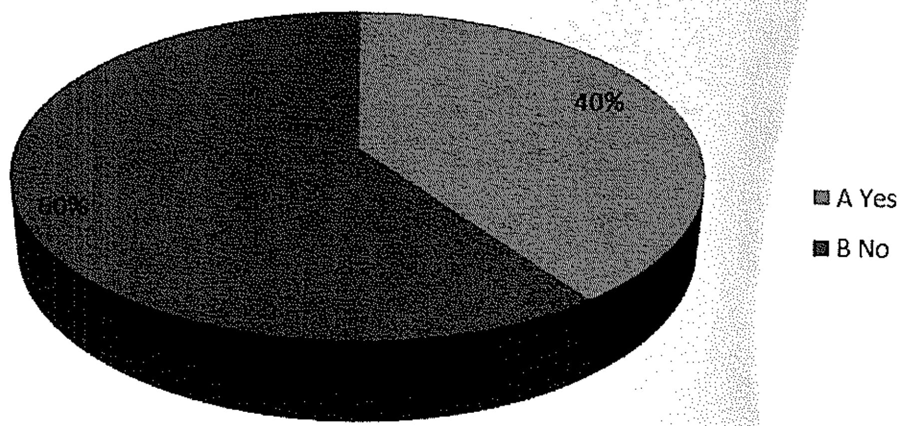
CGA STRATEGY

- Results were based on the following number of individual licensee responses:
  - National Pub Co: 310
  - Regional Pub Co: 92
- 13% more national pub co respondents suggest their business is struggling financially overall compared to the regional pub co's

National Pub Co Results



Regional Pub Co Results

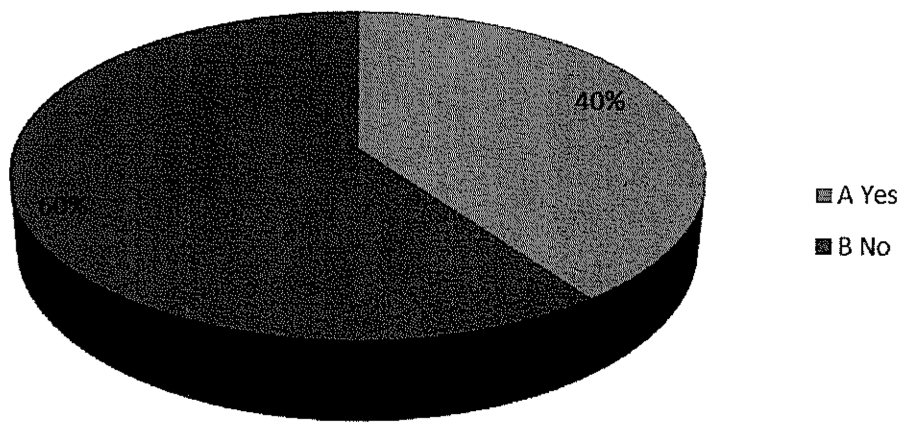


Financial Struggle Sentiment: Free of Tie

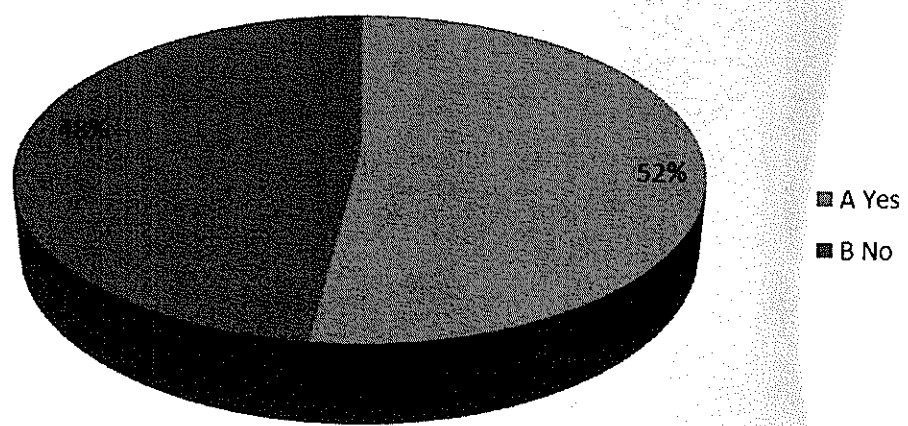
CGA STRATEGY

- Results were based on the following number of individual licensee responses:
    - Freehold Pubs: 290
    - Free of Tie L/T Pubs: 138
- 12% more Free of Tie Lessees suggested their businesses were financially struggling compared to freehold respondents

Freehold Pub Results



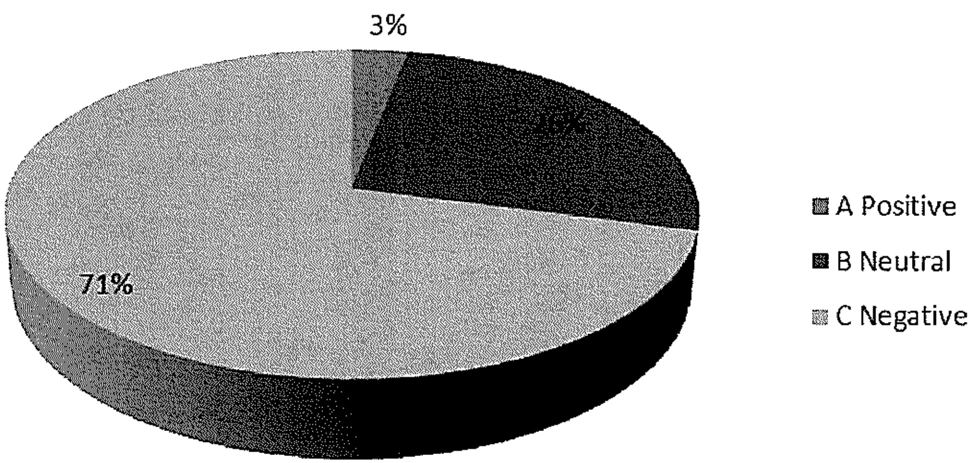
Free of Tie L/T Pub Results



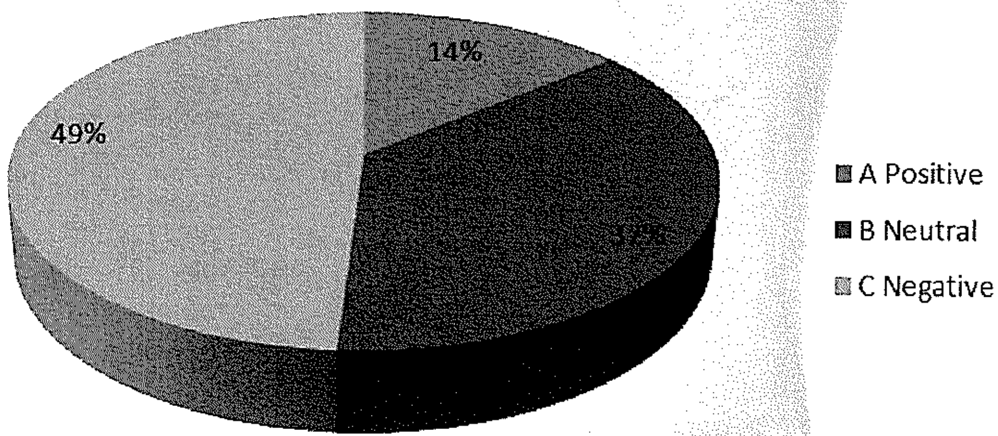
Beer Tie Agreement Sentiment: Pub Company

- Results were based on the following number of individual licensee responses:
  - National Pub Co: 310
  - Regional Pub Co: 92
- Negative sentiments among national pub co lessees were 22% higher than for regional pub co's
- *NB – The tied agreement sentiment question was not asked of the free of tie/ freehold respondents*

National Pub Co Results



Regional Pub Co Results



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