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Wright John (CCP)

From: MULHOLLAND, Greg [greg.mulholland.mp@parliament.uk]
Sent: 21 June 2013 12:12
To: Pubs Consultation Responses
Subject: RE: Submission to the consultation from the Parliamentary Save the Pub Group
Attachments: Save the Pub Group BIS Consultation Response June 2013.pdf

To the BIS Pubs Consultation team:

The document attached to the below email was the incorrect version of the Parliamentary Save the Pub Group's submission. I have attached the correct version. No content has changed, just a couple of typos.

Yours sincerely,

Greg Mulholland MP
Chair, Parliamentary Save the Pub Group

From: MULHOLLAND, Greg
Sent: 14 June 2013 22:18
To: Pubs Consultation Responses
Cc: BINLEY, Brian; MORRIS, Grahame; Save The Pub APPG
Subject: Submission to the consultation from the Parliamentary Save the Pub Group
Importance: High

To the BIS Pubs Consultation team:

Please find attached the submission to the pubs consultation from the Parliamentary Save the Pub Group.

Please do contact my office with any queries, we would be happy to answer them.

We note that whilst BIS have met a number of organisations in recent weeks, you have not asked for a meeting with Save the Pub Group officers.

We would be delighted to attend a formal meeting – me, Brian Binley MP and Grahame Morris MP as Vice Chairs and Lord Bilston as President – at some stage.

Yours sincerely,

Greg Mulholland MP
Chair, Parliamentary Save the Pub Group

On behalf of the Save the Pub Group

BIS Pubs Consultation

Parliamentary Save the Pub Group

June 2013

Pubs Consultation
Consumer and Competition Policy
Department for Business, Innovation and Skills
3rd Floor, Orchard 2
1 Victoria Street
Westminster
SW1H 0ET

Email: pubs.consultation@bis.gsi.gov.uk

Please tick one box from a list of options that best describes you as a respondent. This will enable views to be presented by group type.
Representative Organisation (✓ - MPs and Peer)
Trade Union
Interest Group
Small to Medium Enterprise
Large Enterprise
Local Government
Central Government
Legal
Academic
Other (please describe):

Introduction

Before going on to answer the seventeen questions which form this consultation, this submission will first express one key concern that the All Party Parliamentary Save the Pub Group has with the draft statutory code before highlighting a few concerns that it has with this consultation document.

Concerns the All Party Parliamentary Save the Pub Group have with the draft statutory code

Firstly, the All Party Parliamentary Save the Pub Group is concerned that the draft statutory code does not meet either of the two key principles that it is designed to uphold: the principle of fair dealing and the principle that the tied licensee should not be worse off than the free of tie licensee.

As such, as currently drafted, the statutory code would not deliver anything substantial beyond the current unsatisfactory voluntary arrangements and crucially would not do anything do deal with the fundamental problem: that currently pub owning companies take more than is reasonable, fair or sustainable from pub profits, preventing the licensee from making a fair return. This overcharging takes the form of both excessive rents and product prices.

So as the code is currently drafted, it would (1) fail to deliver either of the Government's key principles, that BIS have committed to deliver/enshrine in law and (2) would not deal (yet again) with the serious problem that has done so much damage in the industry – the chronic and endemic overcharging.

That would mean that, yet again, despite this being on Parliament's and Government's radar since the Trade & Industry Select Committee inquiry in 2004, the problem, the ripoff and the abuse would STILL not be dealt with, despite considerable time and taxpayers money being expended. **That would not do. Enough is enough. It is time for leadership and genuine solution and no more tinkering round the edges.**

We remain firmly of the opinion that the only demonstrable way to deal with this overcharging – which is causing pubs up and down the country to close and resultantly costing the tax payer a significant amount in welfare payments – and the only way for the Government to fulfil it's clear promise to enshrine the principle in law that the tied licensee should not be worse of that the free of tie licensee, is to do what the Department for Business, Innovation and Skills were committed to between February 2010 and November 2011 and to back the then Business and Enterprise Select Committee solution of a **'market rent only' option** for large pub owning company lessees and tenants (also known as the 'genuine free of tie option with open market rent review').

This remains the solution proposed by the then Business and Enterprise Select Committee, who in four exhaustive and detailed reports have laid bare the chronic overcharging and abuse in the sector. It is also the position of the Federation of Small Businesses, The Guild of Master Victuallers, The Campaign for Real Ale, Fair Pint, Pubs Advisory Service, Forum for Private Business, Licensees Supporting Licensees, Justice for Licensees, Licensees Unite the Union, the Fair Deal for Your Local campaign and the GMB.

Concerns the All Party Parliamentary Save the Pub Group have with this consultation document

The All Party Parliamentary Save the Pub Group would like to express a number of concerns we have with the consultation document/impact assessment (and particularly the latter, where we have very serious concerns).

There is an ongoing misunderstanding of what delivering the 'prime principle' as it has been called (that the tied licensees should not be worse off that free of tie licensee) actually means.

Delivering the prime principle means precisely that licensees should only pay the equivalent of a fair market untied rent. However it is delivered or whatever agreement a licensee has with their pub owning company, that is the level they should pay. The licensee's sole dry rent or combined dry and wet rent should equal the market rent. The overcharging must be stopped.

The consultation documents/impact assessment seems to regard the prime principle and the market rent only/genuine free of tie option as two exclusive things; they are not.

A market rent only option is one method (and, according to the All Party Parliamentary Save the Pub Group, the most obvious method) of delivering the prime principle. Presenting the prime principle and a market rent only or a free of tie option as separate is misleading.

The impact assessment seriously misrepresents the market rent only option.

Whether it is called market rent only or free of tie, this option means that the licensee pays an independently assessed market level rent to their pub owning company whilst then being allowed to buy product from any supplier.

The market rent only/genuine free of tie option has long been the default option. It was presented by the then Business and Enterprise Select Committee in 2009, accepted and adopted by the Department for Business, Innovation and Skills in 2010 and signed up to by Vince Cable and Ed Davey in 2010/11. As such, it is wrong and misleading to now be presenting it as a controversial add-on rather than as one way to deliver the prime principle.

The three options in the impact assessment present an incorrect and false choice. Further self regulation (Option 1) is not an option as Ministers have promised to introduce a statutory code. Option 2 does not mention the prime principle therefore does not deliver the Ministers commitment and Option 3 is not a separate option, it is one of the two ways that the prime principle can be delivered.

As drafted, due to this misleading presentation, the only sensible choice would appear to be Option 2.

In reality, the two broad/basic options that Ministers have are:

1. `To introduce statutory code that delivers the prime principle through a mandatory market rent only/genuine free of tie option (policed and enforced by the new adjudicator).
2. To introduce statutory code that delivers the prime principle through a mandatory right to exercise a mechanism for calculation of rent/dry rent using a formula that

ensures that where product prices are higher (and policed and enforced by the new adjudicator).

Nothing else can deliver the prime principle and in reality, **we believe that only market rent only/genuine free of tie option can and will do so**.

There is an inference that the adjudicator is somehow the mechanism or solution to deliver the prime principle (stop the overcharging) rather than policing and enforcing the mechanism.

There are several references to this. The All Party Parliamentary Save the Pub Group find this worrying. The adjudicator is there to police and enforce the mechanism in the statutory code that delivers the prime principle (which is market rent only/genuine free of tie option or formula mentioned above), not to actually be the mechanism.

What this is suggesting is that even to determine fair rents and fair pricing versus rents, it would be down to the adjudicator. This is impossible as the adjudicator would have to deal with thousands of cases and means that they would be overwhelmed, which is setting up the system to fail.

Whichever of the two mechanisms BIS Ministers decide to opt for, it is then for the adjudicator to deal with alleged breaches or abuses of these mechanisms – but the whole point of the code is that it will deliver a mechanism that will in most cases deliver the prime principle without the need to enforce.

The Impact Assessment is based largely on information provided by the British Beer and Pub Association and the pub owning companies themselves which is flawed, inaccurate and assumptive.

As explained previously, the outcome of delivering the prime principle is the rebalancing of pub profits. As such, there should be no difference in cost between Option 2 and Option 3. The explanation for the difference in cost is down to the fact that Option 2 does not include the prime principle and Option 3 is presented as something different.

However, as Option 2 does not include the prime principle, it does not deliver the Government's commitment so should not even be being presented to Ministers and the public as an option!

As well as the flawed presentation of the options available to Ministers, the Impact Assessment is full of unproven assertions and information clearly provided by British Beer and Pub Association, big brewers and the pub owning companies themselves.

For example, it is claimed that the market rent only/genuine free of tie option would lead to a high cost for consumers. This is not the case. Under a market rent only/genuine free of tie option licensees would be allowed to buy directly from any supplier, at a market or wholesale price. As such, it would very unlikely that licensees would increase their prices.

Similarly, it is claimed that a market rent only/genuine free of tie option would lead to "dominance of the market by large international brewers." This is not the case. If this was likely, it is also likely that this would have already happened to the UK's 20,000 freehouses. This has not been the case.

It is also claimed that a market rent only/genuine free of tie option would "lead to the closure of one of the main breweries." The All Party Parliamentary Save the Pub Group would like this to be looked at in more detail and it seriously disputes this claim. Marston's profit considerably from their managed pubs and it is unlikely that reform (alongside their wholesale/freetrade/supermarket ownership) would lead to their collapse.

Finally, the Consultation Document and Impact Assessment continue to take at face value the idea that freehouses are closing at a faster rate than tied pubs (which is simply not the case, and The All Party Parliamentary Save the Pub Group strongly disputes) as well as lifting quotes out of context from the report published by the Office of Fair Trading which did not include the relationship between licensees and large pub owning companies in its remit.

The context of the All Party Parliamentary Save the Pub Group's consultation response

The All Party Parliamentary Save the Pub Group would now like to briefly outline the context in which its consultation response is grounded.

The fundamental problem

The crux issue in the sector is that pub owning companies operating on a leased model take more than is reasonable from pub turnover (in both inflated beer prices and rents), making it difficult or impossible for the licensee (the small business) to make a living.

This is causing viable pubs to close that would otherwise survive. Nothing in the so-called self regulatory reform package changes this fundamental problem.

The supposed basis of the 'tie' and how it used to operate is that licensees pay more for beer (and other product) but pay a lower than market rent – but this stopped being the case and leases became unfair, based on hugely inflated beer prices and high rents.

The latest Association of Licensed Multiple Retailers Benchmarking survey showed that for the first time, tied rents are actually higher than rents for free of tie. Tenants/lessees are being double overcharged and there is currently nothing written in to legislation to stop this.

The tied tenant should not be worse off than if they were free of tie. That is clearly not the case, so it seems clear that this exemption is being breached. It is also notable that the decision made by the Office of Fair Trading not to investigate the sector was partly made on the basis that tenants/lessees had lower rent than free of tie licensees, which completely undermines the findings of their response to the super complaint made by the Campaign for Real Ale.

The Previous BIS U-Turn & response

2011 was supposed to be the pub owning companies last chance to self-regulate, Ministers then gave them yet another one. The whole process of voluntary codes of practice has been going on for years and past voluntary codes have been regarded as completely inadequate so the All Party Parliamentary Save the Pub Group believe that for the Department for Business, Innovation and Skills to respond to the clear recommendations of the Select Committee by merely seeking to extend this yet further was extremely odd.

The Save the Pub Group exposed, through a freedom of information request, that there had been in secret one-sided negotiations between BIS Minister and officials with the British Beer and Pub Association (the effective representative association of the large pub owning companies) behind the backs of other industry organisations, crucially those representing tied licensees and pub customers and the Select Committee.

It also exposed that the published Department proposals were based on what the British Beer and Pub Association agreed to in these secret negotiations, many cut and pasted directly from the British Beer and Pub Association's own document! So, the All Party Parliamentary Save the Pub Group believe that in reality, this was the British Beer and Pub Association's solution, not the Government's!

Inevitably only what the British Beer and Pub Association and large pub owning companies agreed with was included and the key mechanisms to deal with the crux issue – a market rent only/genuine free of tie option and guest beer right were therefore deliberately excluded.

In truth, the Framework and company codes, under the veil of offering a multitude of peripheral apparent concessions, in reality seek to do one thing – avoid what is actually needed to deal with the problems in the sector.

The current status of the 'self regulation solution'

There have been four Select Committee enquires and two unanimous overwhelming (unopposed) motions of the House of Commons in support of reform. The Select Committee solution was adopted as the official Department position in early 2010 and was then backed post 2010 General Election by Coalition Ministers from the Department for Business, Innovation and Skills. The reform solution (a statutory code including an option to pay market rent only, backed by an adjudicator) was the solution put forward by the then Business and Enterprise Select Committee, chaired at the time by Conservative MP Peter Luff.

Self regulation was given several last chances, including an additional 18 months beyond the original deadline (June 2011) that had been suggested by the Select Committee and signed up to by Ministers from the Department for Business, Innovation and Skills in both the previous and current Governments. Self regulation failed by the tests set by the Select Committee and adopted by Ministers from the Department for Business, Innovation and Skills. Despite the further unexpected period to allow self regulation to work, it emerged in December 2012 that the British Beer and Pubs Association (who speak for the pub owning companies and big brewers) who had proposed their voluntary code admitted they had no role, or interest, in dealing with tenant profitability – the fundamental issue at stake!

The new proposed self Regulatory Board does not share the same commitments as Government, seeking to deliver fairness and a tied licensee no worse off than if they were free of tie. Self Regulation is not accepted as 'independent' by many licensees.

It is notable that, whereas the clear instruction to pub owning companies was to expand on and go further than the British Beer and Pub Association's framework code of practice, they have failed to do this. The Framework Code is not substantially strengthened. The provisions relating to rent, insurance, Business Development Manager training, dilapidations and pre-entry training remain materially unchanged. Whilst discussion of further improvements with industry partners has taken place, this appears to have been a

box ticking exercise as no further improvements in respect of the core issue, rebalancing risk and reward, have come to fruition. The "Immediate Changes" were nothing more than redrafting and rewording of the original Framework Code giving the false impression of progress, the one and only new proposal, the publication of a national price list was never published.

The idea of the codes having being made definitively 'legally binding' is simply not the reality, with even the British Beer and Pub Association receiving differing legal opinions. The codes are not legally binding for all tenants/lessees in the sector. They are not legally binding if not incorporated into the contract and not signed by both parties; and of course they are not applicable to tenants/lessees of non-British Beer and Pub Association members. Indeed, what is certain is that what has been done is to make it possible for the codes to be legally binding if signed up to by both parties or by being incorporated as leases, which is not the same as them automatically becoming legally binding – as if equivalent to a statutory code. Even as recently as the last few months lawyers acting for Enterprise Inns, a BBPA member, are contending in court that the self regulatory code is not legally binding. So there has been a misleading presentation on the part of Department over this issue, as well as the confusion and conflicting advice. There remain many tenants/lessees to whom the codes are not currently legally binding as they are not in their lease, they haven't signed up to them – and because the codes do not address the crux issue, they do not want to sign up to them!

The nonsense of making codes legally binding is actually a red herring, anyway. A weak code of practice that fails to offer a market rent only option and/or a guest beer right does nothing to address the imbalance between large and small business, whether it is legally binding or not!

It is misrepresentative to say the British Beer and Pub Association's Framework Code is an 'Industry' Framework Code and is industry agreed. The code does not apply to all in the industry. A new Framework Code has not been agreed by the industry. The Independent Pub Confederation, including Federation of Small Businesses, the Campaign for Real Ale and UNITE, representing tenants, lessees, small brewers and consumers were specifically excluded from the process again.

So called independent bodies are not independent – in both personnel or funding. Pubs Independent Rent Review Scheme and Pubs Independent Conciliation and Arbitration Service are British Beer and Pub Association sponsored and run and not seen as independent, despite the involvement of other bodies and the codes do not cover the material and meaningful issues to tenants and therefore even if Pubs Independent Conciliation and Arbitration Service were independent, the service can not consider issues outside the code.

The Chair of the established Pubs Independent Conciliation and Arbitration Service panel, Roger Vickers, in fact acts for Punch Taverns. Norman Lamb, in his tenure in the Department, was horrified when he discovered that Mr Vickers acted for Punch and was Chair of the established Pubs Independent Conciliation and Arbitration Service panel, when it was supposed to be an independent body, something that he was clearly unhappy that he had not been told by officials.

There has been some misunderstanding of the recent decisions made by Pubs Independent Conciliation and Arbitration Service (PICAS).
go through the Pubs Independent Conciliation and Arbitration Service, has said he is "still

trying to work out the Government's aim in promoting self regulation in the sector." He goes on to say "I am at a loss as to what the Government wants. Is it balancing risk and reward? I am trying to work out what the Government objective is with the self regulation agreement." He also raised concerns with the procedure of Pubs Independent Conciliation and Arbitration Service, stating that the process is "very intimidating", as well as suggesting there needs to be an independent review of every decision that goes through Pubs Independent Conciliation and Arbitration Service, stating "There needs to be more accountability and communication on how it arrives at its decision." This clearly demonstrates that there is a complete lack of trust with Pubs Independent Conciliation and Arbitration Service from tenants and licensees, even from a licensee who was successful in his appeal!

The Pubs Independent Conciliation and Arbitration Service cases have to be kept confidential, which does nothing to assist with much needed transparency and accountability and allows the pub companies to force licensees to stay silent their issues, or they can't even go through Pubs Independent Conciliation and Arbitration Service in the first place.

With influence in many bodies, including the Royal Institution of Chartered Surveyors, the pub companies managed to manipulate the tied rental market resulting in a situation today where tied rents are now higher than free of tie rents. Rob May, National Rent Controller for Enterprise Inns, now perhaps the biggest pub owning company in the country (and the one with the worst reputation with its lessees), was the chairman of the Royal Institution of Chartered Surveyors specialist group that wrote the rent assessment guidance for pubs, considered to be a gross conflict of interest to many in the industry. The Royal Institution of Chartered Surveyors is rife with surveyors who are in conflicted positions either working directly for pub companies or brewers or deriving significant fees from instructions there from.

The Government, and the Select Committee of 2011, identified that the new Royal Institution of Chartered Surveyors guidance, despite attempts to improve it, was suffering confused interpretation and the specialist Royal Institution of Chartered Surveyors group, on which Rob May still sits, has blocked any revisions to ensure clarity. It has also been revealed that the guidance is not mandatory even amongst Royal Institution of Chartered Surveyors members and therefore pub owning company employees are not bound by its provisions.

Due to confidentiality issues the framework and company codes cannot fulfil their claim to provide prospective and existing licensees access to information that they need to enable them to make sound commercial decisions and resolve disputes fairly and satisfactorily. Existing and prospective licensees are still faced with a lack of information and crucially without comparable.

Indeed it is clear that the pub owning companies are still giving wholly unrealistic sales figures and 'fair maintainable trade', when in reality the amount tenants/lessees can make is considerably less than what they suggest and often in reality little or nothing at all (whilst of course, the pub companies are guaranteed their income from fixed inflated rent, based on these dishonest figures and their unreasonable mark-up on beer). This was described at the time of the select committee hearings as fraudulent.

Other issues have still not been dealt with – the fact that the large pub companies still exploit both the 'amusement machines with prizes' tie and force lessees to purchase

overpriced insurance from them, rather than allowing them to shop around on the open market.

Consultation questions

Q1. Should there be a statutory Code?

Yes.

However having a statutory code in itself does not address the fundamental problem. Putting the current Framework Code on a statutory footing would not only maintain the current situation, but would actually make things worse for licensees. This is because in the current situation, the Framework Code is only legally binding if both parties sign up to it, which means that existing lessees do not have to and may choose to opt out. Many lessees believe that the Framework Code actually imposes new restrictions on the licensee.

To reiterate, it was never was about whether there were codes or not, it was always about stopping the pub companies from taking more than is reasonable, fair or sustainable from pub profits.

Q2. Do you agree that the Code should be binding on all companies that own more than 500 pubs? If you think this is not the correct threshold, please suggest an alternative, with any supporting evidence.

Yes.

The new code should apply to all companies that own 500 pubs or more (under any model) to all their tied houses, tenanted and leased (and any definition of tied pubs, as in the Beer Orders). It must apply to all companies who have above the de mimimus number of pubs regardless of how many are tied pubs as this is about market share.

Even if a company only has only one tied pub, but one over the de minimus, they must be covered by the code. The code will then apply to their only tied pub.

Whilst there are sometime issues involving the family brewers, it is important that they continue to be allowed to sell their beer in their pubs. It will also be much easier to get a meaningful code through with the family brewers all being excluded. This also helpfully means that if they do prosper as the large pub owning companies continue to sell off pubs, which will now escalate, they would find themselves bound by the code as soon as they get bigger.

It is vital to consider what happens if the pub owning companies restructure into a number of smaller companies to get under the limit. This may need to be reviewed in the event that any of the larger companies seek to divide themselves into smaller companies to continue to overcharge their tenants and lessees.

Q3. Do you agree that, for companies on which the Code is binding, all of that company's non-managed pubs should be covered by the Code?

Yes.

Q4. How do you consider that franchises should be treated under the Code?

Yes. The statutory code should contain a provision that all agreements that contain tied provisions, whatever they are called, should be fair, reasonable and comply with all legal requirements.

Q5. What is your assessment of the likely costs and benefits of these proposals on pubs and the pubs sector? Please include supporting evidence.

Summary

A market-rent only option will mean that tied licensees would receive a fairer share of pub profit.

Currently, many tied tenants earn below the equivalent of the national minimum wage from their pubs. In 2009, the then Business and Enterprise Committee published their findings that 67 per cent of lessees of tied pubs said that they earned less than £15,000 per annum and even where pubs had a turnover of more than £500,000 a year, over 50% of lessees earned less than £15,000. The Institute of Public Policy Research also found in 2011 that 46 per cent of tied publicans earn less than £15,000 per year, in contrast to only 22 per cent of non-tied publicans.

The Impact Assessment indicates a best estimate that an average licensee's earnings would improve by £4,000 annually under a market-rent only option. According to recent figures by the Campaign for Real Ale this amounts to an increase in earnings of circa 40% for 60% for tied licensees. ***Yet in actual fact, the over-renting (wet and dry combined) by the large pub owning companies is often much worse than that and generally well over 50% (and sometimes 100%) of pub profits and also too high a proportion of turnover.***

This kind of financial improvement will encourage entrepreneurial flair where it is currently lacking, reinvestment, training jobs, and most importantly profitability will ease the closure of pubs and business failure rate of tied publicans.

The need for reform

Delivering the prime principle through market rent only/genuine free of tie option would free up what has become a stifled market, dominated by a handful of companies whose business models are considered by many as discredited and who have made it difficult or impossible for many small businesses, the lessees and tenants, to make a success, despite adequate or indeed healthy turnover figures.

The pub owning company tied model has clearly failed and the pubs sector has been stifled by the unreasonable and unsustainable business practices of the larger pub companies. There are parallels with what happened with the banks speculation, which did so much damage to the economy. Some of the pub owning companies can be seen to have behaved in a similarly irresponsible manner, overvaluing their estates and borrowing vast sums against this, which has led to both their mind boggling levels of debt (in reality some are described as 'zombie' companies) but also to them taking much more than is reasonable as a proportion of income from their pubs. This is damaging and destroying what would otherwise, even in difficult economic times, be viable small businesses that of course also employ local people and buy local produce.

The negativity and unsustainability of the pub owning company business model is evident not only from the disastrous effects it has had on many pubs, but also by the impact it has had on its own shareholders, including their pension funds. Punch has now split into two and along with Enterprise has lost around 95% of its peak market value. The model is not only now failing lessees, pubs and the communities who rely on them but the pub owning company's own shareholders, it is also failing and damaging the entire pub 'industry' and indeed the UK economy itself.

A statutory code, delivering the prime principle via a market rent only/genuine free of tie option, would free up the pub sector would encourage growth as a result of a renewed, rejuvenated pub sector, with more diverse ownership that will promote entrepreneurial flair and ensure communities are able to enjoy thriving local pubs, with a good range of beers available at fair prices.

The pub owning companies, big breweries and their association, the British Beer and Pubs Association, hysterically claim that reform would be bad for the 'industry' and economically damaging. However, the reality is that neither Enterprise nor Punch are large employers and neither have any perceived growth opportunity at all. Instead both have seen a huge rate of lessee and tenant failure within their own estates and many of their pubs are now closed and converted into alternative use. The real growth opportunity is in the pubs themselves, but this will not happen without the introduction of a statutory code delivering the prime principle, this is the way to encourage fair trading within the existing tied model, deregulate the market and to create growth, something which is so vital to the British economy at the moment. Maintaining the status quo (or not delivering the prime principle) will see many hundreds of pubs continue to close each year. Reforming it would allow many of those pubs to succeed under a more competitive existing model, a different model or even new ownership.

It is very notable that calls for reform, as envisaged by the Select Committee, are fully backed by the Federation of Small Businesses and the Forum of Private Business who are all too aware, from their own members, that pub owning company tied lessees operate on unreasonable terms skewed very heavily in favour of the pub owning company. Both organisations back the Select Committee's insistence (which is also now backed by Ministers) that a statutory code of practice with a genuine free of tie option and both have stressed the huge opportunity that exists through this to allow the pub lessees/tenants, the small businesses and the ones that actually operate the business, to innovate and thrive.

The All Party Parliamentary Save the Pub Group and the Campaign for Real Ale have compiled a list of examples of pubs around the country that had been deemed 'unviable' by the pub owning company owner, yet now were succeeding under new ownership being run on a different business model. This is a very positive trend in the sector, however it is currently only happening on a small scale because pub owning companies are disposing of pubs, even when they are viable, simply to pay off their debts and appease their increasingly disgruntled creditors. Real reform – which means a statutory code delivering the prime principle (through a market rent only/genuine free of tie option) would lead to this happening with hundreds and possibly thousands of pubs, who could then be taken on and operated on a different and sustainable business model.

It is notable that British Brewing is more diverse than it ever has been and that is to be celebrated, with 1,000 breweries currently brewing up and down the country. These companies are succeeding, producing excellent products and expanding and taking on pubs, however, this will only be able to flourish with reform and the MRO option. This is a

clear example of where Government can and should intervene to free up and release the opportunity that exists.

Positive impacts for the sector, for business and the economy

Many more pubs can survive and thrive – Through ensuring that tied licensees (of non managed) pubs owned by companies owning 500 pubs receive a fair split of the pub profits, it will make many of these pubs viable and they will therefore be able to continue to trade as well as being able to invest in their business, buy locally and employ people.

A greater contribution to the local and national economy – more viable/profitable pub businesses would have a very significant effect not only to the local economy but to the UK economy. There would also be a notable effect on the national economy as much more of the pub profit would be circulated and reinvested compared to the current situation where the indebtedness of the big pub companies means much of the turnover is simply used to pay off unsustainable debt that in reality can never be paid off (Punch Taverns is classified as a zombie company).

A net benefit to the Treasury – Reform would see more tax (income tax, employers tax, VAT etc) paid as a result of many small businesses making a reasonable bottom line. It would also see a huge reduction in the amount of tax credits currently being paid to tied licensees, projected as being over £30m per year (which is therefore how much the Treasury is currently having to subsidise the pub owning company tied sector, which is outrageous when without the pub owning company overcharging this would be greatly reduced). If bankruptcy debt write off is factored into local authority business rates and HMRC from failed pubs you are looking at close to £1 million per week from taxpayers. Also, fairer prices to licensees would lead to lower prices for consumers, which would lead to more beer sales which then leads to increased beer duty.

Greater investment in pubs – One of the biggest problems has been what Amber Taverns boss James Baer has called 'financial doping' i.e. the chronic and devastating lack of investment in pub estates by the leased pub owning companies due to the huge debt levels. This has been very damaging to pubs and allowing licensees to earn a fair deal and also seeing other operators taking pubs on would allow for much needed investment in former pub owning company pubs. In many cases this is the difference between viability and survival. It would also encourage capital investment through increased confidence in the banking sector as prospective leased and tenanted pub operators would be more able to raise finance for free of tie pubs as banks are reluctant to lend money to tied operators due to the high failure rate – but would do so on a fairer business model that allowed for reasonable rates of return. There would also be more investment in pub owning company owned pubs.

Under a market rent only/genuine free of tie agreement, pub owning companies/brewers will have one revenue stream – rent only – and as rent is established as a factor of profitability it will be absolutely in the brewer and pub companies interest to invest in and support their lessees and tenants any rental increase will be a factor of their publicans performance and success – so the pub owning companies revenue will depend on it. Unlike other commercial agreements (where rent is established on values per sqaure metre), pubs are valued according to the Royal Institution of Chartered Surveyors rent assessment guidance using a 'profits method' rent will be directly related to nothing more than the publicans profitability. So a market rent only/genuine free of tie option would actually increase the incentive for

pub owning companies to invest, whereas now they all too often simply rely on collecting inflated dry and wet rent.

More innovation – The dominance of the pub owning companies has stifled innovation in the tied sector. Allowing licensees to operate on a fairer basis would in turn allow them to make decisions to build and boost their business, to be more responsive to customer demands and changing market conditions and would allow innovation and entrepreneurial thinking. More publicans will be encouraged start brewing 'in house' beers.

More diverse ownership of British pubs * – Reform would have the very positive effect on the pub sector as a whole which would not only no longer be dominated by the big six pub owning companies, but would also include much wider ownership with more pubs being owned and run by small/micro breweries (many of whom are taking on pubs and are keen to take on more), by small pub companies run on a different model (there are many of these and they are succeeding and expanding), by local entrepreneurs and by communities themselves and by co-operatives.

*This mainly refers to pubs in England, Scotland and Wales as the pub sector in Northern Ireland is very different.

More pubs in local hands – This makes the pubs as businesses more locally responsible, more connected to the local economy and more accountable to local people. Many of the small pub companies operate pubs in a geographical area as well of course of the increased ownership of pubs by local people, communities and local small/micro breweries.

Much better and fairer access to the pub market for small brewers leading to increased consumer choice – There will be more choice of beer. For example, London has over thirty micro brewers, with many variations of beer, only a handful of micro brewers beers are available on the pub companies price lists - none permitted on the small family brewers lists. With the increased demand for more range, speciality ale outlets are opening around the country, their growth only hampered by the lack of availability of free of tie outlets.

It is important to note here that some small breweries are prepared to publicly take part in consultation to say they support market rent only but many will not and are afraid to as they know it could lead to being delisted by large pub owning companies or prevented from accessing SIBA direct delivery scheme (DDS). Whilst DDS allows some, not all, small breweries access, they still don't get a decent price and better and fairer access would only come via market rent only.

Discourage the main cause of diminished tied pub profitability – Whilst obviously affecting the pub sector, supermarket pricing and taxation are not the primary influences over tied pubs profitability. 'Tie' agreements, permitting the pub companies to over inflate the prices of products to their publicans, to in some cases over double the market price, are the main cause of diminishing pubs profitability (as is demonstrated by the accounts of pub companies and brewers who operate managed and tied portfolios - the managed pubs are flourishing despite the universal economic drawbacks of smoking bans, supermarket pricing and tax).

Reduce cost of entry to the pub sector - There is no reason why entry into a free of tie lease or tenanted agreement would be any more or less cost than a entry into the tied agreement and, as the free of tie operators anticipated gross profit is higher, as a result of

lower open market product prices, there is a better chance of effective competition and success with other licensed operations.

Encourage expansion and development of smaller brewers and competitive edge of bigger ones – Small brewers will be encouraged to compete on a level playing field, the micro brewery industry, the most positive growth element of the sector within the brewing sector, will have access to more pubs and their expansion permitted to develop and evolve without restraint. Bigger national brewers will be encouraged to concentrate their efforts on producing a better product instead of relying on the subsidy permitted by what is effectively a captive audience.

Advance brewery innovation and product development –Breweries with a popular and well priced product will flourish. Innovation and development of different beers will expand, as it has in Europe and America but with a definitive British twist.

Widen pub ownership groups – Small/micro brewers will develop and manage their own small pub portfolios or seek to agree terms to lease or tenant them with mutually favourable terms - allowing both landlords and tenants to gain a fair proportion of profit whilst assuring them of a degree of certainty of distribution.

Beer will decrease in price – At the moment a tied operator must achieve around 50% gross profit to break even (less in many provisional areas). The availability of beers at as much as half the tied product price will enable improved gross profit whilst offering the opportunity to lower consumer price.

Reduce fixed costs – The tied model claims to offer lower fixed costs (rent) this year the Association of Licensed Multiple Operators Benchmark Survey found tied rents were higher than tied rents. Tied rents should countervail tied product prices but they don't.

Reduce variable costs – Tied agreements have much higher variable costs (tied product prices have consistently outstripped inflation and are the main reason for the widening gap between super market prices and beer pries in pubs).

Promote stronger wholesaling variation and competition – All pub companies and brewers currently operating a tied model are essentially wholesalers, with established routes to market and delivery networks they will be in a prime position to compete, as wholesalers to the entire country, rather than a limited owned estate in an open and competitive market place.

Discourage market dominance – There are currently around 55,000 pubs, 20,000 are able to purchase their products in an open and free market place. International brewers largely produce lager and rarely brew cask ale they do not dominate the 20,000 free of tie market operators now, as this market offers a competitive environment, however, the tied model enables just that eventuality restraining any new brewers introduction to over half the sectors outlets.

Lower start up costs – On leased and tenanted agreements rent is usually payable quarterly or monthly in advance, combined with the over inflated tied product prices the start up costs for pubs under tied agreements is actually higher than for free of tie agreements.

Reduce pub closures – Many more tied pubs fail than freehouses or free of tie pubs (the CGA figures are seriously misleading due to the categorisation and methodology and

crucially do not include reclassifications of pubs to free of tie before closure). When taking churn into account (i.e. failures of tied pub businesses and temporary closures) there is no doubt that the number of tied pub business failures is many more times higher than freehouses.

Rebalance bargaining power between big and small business discourage abuse of dominant position of the pub owning company – Self regulation could never work as it relied on moral standards whilst there were 'loopholes' in the law – a party of a mind to manipulate an opportunity presented by legal weakness will continue to do so. Government statutory regulation denies abuse of a flawed and corruptible business model which, if operated appropriately can benefit all.

Q6. What are your views on the future of self-regulation within the industry?

Self regulation can continue for companies that own less than 500 pubs, where there is much less of a problem of overcharging. However, statutory regulation is crucial for companies who own 500 or more pubs.

However there still should be improvements – more transparency, less BBPA/pubco/BII influence and more genuine tenant/licensee involvement in any self regulatory bodies.

The adjudicator should also have a role in overseeing self regulation, to ensure that (even without a statutory code, it delivers basic 'fairness' to all tenants and lessees.

Q7. Do you agree that the Code should be based on the following two core and overarching principles?

i. Principle of Fair and Lawful Dealing

The principle should be fairness not the rather odd 'fair dealing', indeed the phrase to adopt is the one already in the voluntary code of practice, yet strangely then not included in actual company codes (another failure of self regulation). The phrase is "All contracts will be fair, reasonable and comply with all legal requirements." Talking about 'fair dealing' could be meaningless if contracts are unfair in the first place! So we are concerned as to why this strange and seemingly watered down phrase is included instead of the clause. The clause from the voluntary codes is the one that should be adopted.

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

Yes.

Q8. Do you agree that the Government should include the following provisions in the Statutory Code?

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

Yes.

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

Yes.

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

Yes.

iv. Provide a 'guest beer' option in all tied pubs.

Yes, but a market rent only/genuine free of tie option is essential as the solution. A guest beer option is additional and then needs the second calculation of a 'part tied' dry rent. To increase benefits to the consumer and to allow for greater and fairer access to the market for the country's many microbrewers (the key issue being fair access, as currently pub owning companies demand prices mean that they can't sell to tied pubs) then a guest beer option could be introduced for all tenants and lessees who choose a tied lease. This should allow them one hand pulled beer that can be bought direct from brewers. (Ironically, this is in the pub owning company's interest in a strange way, as offering this does make tied leases and tenancies considerably more attractive!). It would also be a huge boost to the microbrewing sector and be great for consumers. As the microbrewers sell more beer, they themselves will be able to buy more pubs. We then end up with stronger small businesses, employing more people and with more diverse pub ownership than the current one that has done so much damage!

A 'tied market rent only' option should also be explored. This means that brewers (only) could continue to insist a proportion of their beers (e.g. 100%, 80% etc) being sold through their pubs, but that the licensee would be able to buy that beer from any source, to ensure they get lowest/best price (which would be expected to be the brewery – but the freedom would prevent artificial mark-up by the pub owning brewer).

The concept of the tie appears to have changed in understanding. All it technically means is that in a lease for a public house, there is an obligation on the tenant to purchase all or some of the beer (and other products) sold on the premises from the pub owning company or a supplier nominated by the pub owning company.

It does not actually mean that these products have to be purchased at a higher than market/wholesale price – and did not used to mean that, even for brewery tied pubs!

Because the purpose of the Government intervention is to stop the overcharging and abuse, not to widen the choice of beer on offer (and this is not a problem in the market), then it could be possible to introduce, in the code (for pub owning breweries above the de minimus), a 'tied' rent only agreement that allows pub owning breweries to tie licensees to only selling their beer (with or without guest beer, dependent if this is introduced) but that they can buy from wherever i.e. at wholesale brewery price. This means that brewers could continue to sell just their beers (or all bar one of their beers) – thus maintaining 'tied' brewery pubs in the traditional sense but with no overcharging.

Indeed, in this form of agreement, the brewery should be able to offer its licensees the lowest (brewery) price, so this should lead to the tenant buying their beer from the brewery!

The idea that "the tie", meaning overcharging for beer, is essential to Britain's brewers is simply not true. The tie, as meaning that a brewery can sell only its beer in a pub, is different.

Of course, managed pubs can continue to insist on selling whatever beers they like – which will mean often only the beers of the pub owning companies and subsidiaries also. That would be unaffected.

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.

Yes.

The code must include flow monitoring. Brulines as currently applied could not get past a truly independent adjudicator. It needs to be properly tested and regulated.

There are many examples of Brulines being inaccurate and appalling examples of pubco abuse based on their figures.

The basic point is this: if this were the fair, collaborative business relationship that the BBPA and pubcos like to claim it is, why would there be any need for a system that checks to see if people have bought beer from someone else? If the overall deal were fair (as it seems to be/may be in the case of family brewers) would there be a need to enforcedly install such equipment into pubs without the consent of the licensee *and with the cost then also passed on to the licensee?*

The need for Brulines in itself is clear evidence of this appalling, corrupt, feudal business model that is based on overcharging, bullying and corporate abuse.

***Q9.* Are there any areas where you consider the draft Statutory Code (at Annex A) should be altered?**

There needs to be a Market Rent Only option - where a licensee can choose to remain tied or simply pay a market rent and purchase beer (and any other formerly tied products from any source).

Like the Industry Framework Code (in which it is an empty promise as it cannot be enforced) there needs to be a clause in the Statutory Code that:

"All contracts will be fair, reasonable and comply with all legal requirements."

It should be made clearer that all rent assessments (especially at rent review and lease renewal) need to be undertaken on the basis that Royal Institution of Chartered Surveyors guidance should be interpreted on the principle that the tied licensee is no worse off than the free of tie licensee.

***Q10.* Do you agree that the Statutory Code should be periodically reviewed and, if appropriate amended, if there was evidence that showed that such amendments would deliver more effectively the two overarching principles?**

Yes.

The opportunity to review and amend was the main failing of the Beer Orders which led to unintended consequences. The statutory code and Adjudicator proposals seek to avoid such gaming of well meaning Government intentions.

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

Yes.

It is essential, as it offers the opportunity for a licensee to sever unfair contract terms presented in tied agreements. Without free of tie option and an open market rent the code can be easily exploited.

***Q12.* Other than (a) a mandatory free-of-tie option or (b) mandating that higher beer prices must be compensated for by lower rents, do you have any other suggestions as to how the Government could ensure that tied tenants were no worse off than free-of-tie tenants?**

This is not an either or deal. A package of reforms are necessary all outlined in the proposed Statutory Code with the exception of the most important feature a mandatory free-of-tie option with an open market rent. If the rent cannot be agreed between the parties then it should be determined (in accordance with the lease terms) by an independent third party in accordance with Royal Institution of Chartered Surveyors rent assessment guidance.

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

An adjudicator is welcome but not essential and is not itself the solution, whereas a market rent only/genuine free of tie option is. A properly defined market rent only option, with a clear defined process of establishing it is the solution – and would deliver the reform needed (and a fairer split of pub profits in without need for adjudication, except where there had been any abuse of process).

The market rent only option reduces adjudicator workload by offering a self policing opportunity at an individual pub level - a 'market rent only' option, available to tied lessees and tenants, would enable individual operators to compare and contrast their tied agreement with the circumstances and profitability of being free of tie. It is the terms of the tied agreements, if perceived to be unfair and unreasonable that will result in tied operatives choosing to release themselves of the burden of being tied. The threat alone of this flexibility will ensure that those pub owning companies operating tied agreements will seek to maintain fairness and competitive behaviour rather than using their inflexible models as a tool to oppress their licensees.

Q14. Do you agree that the Adjudicator should be able to:

i. Arbitrate individual disputes?

Yes.

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

Yes.

Q15. Do you agree that the Adjudicator should be able to impose a range of sanctions on pub companies that have breached the Code, including:

i. Recommendations?

Yes.

ii. Requirements to publish information ('name and shame')

Yes.

iii. Financial penalties?

Yes.

The Adjudicator also needs more powers than this. The Adjudicator should have similar powers to those afforded to the Office of Fair Trading in the case of Unfair Contract Terms in consumer Tenancy Agreements; essentially have the power to render an unfair contract term unenforceable.

Q16. Do you consider the Government's proposals for reporting and review of the Adjudicator are satisfactory?

Yes.

Q17. Do you agree that the Adjudicator should be funded by an industry levy, with companies who breach the Code more paying a proportionately greater share of the levy?

Yes, but with the caveat that market rent only option is more important – and that without a market rent only option, an adjudicator's job is impossible.

What, in your view, would be the impact of the levy on pub companies, pub tenants, consumers and the overall industry?

The large pub owning companies and brewers are already paying for the self regulatory approach, the levy for the statutory code will reduce the funds for self regulation but the work load for the regime will be dramatically decreased (as most complaints are from pub owning company licensees of the six biggest firms). The costs associated with the adjudicator and statutory regulation will largely depend on the behaviour of the pub owning companies. Worse behaviour would lead to more complaints which would lead to more work and higher costs.

<u>Dealing with dishonest arguments</u>

There have been a huge amount of dishonest arguments put forward, in an attempt to avoid reform. The All Party Parliamentary Save the Pub Group would like to rebut these.

Market rent only means "abolishing the tie"

The market rent only option does not abolish the tie, indeed it makes the tie work as it should, ensuring that if a licensee pays higher prices for beer, they get a proportionately lower than market rent. Alas currently, that is rarely the case.

"This is red tape"

There is nothing in the proposed statutory code that increases 'red tape' over and above what already exists in the existing self regulatory code. Indeed, far from burdening them, for a licensee, paying market rent only would free them up offers considerably less red tape as purchases can be made direct with brewers and suppliers – it cuts out the middle man and provides a simpler business model.

"Licensees would lose the huge discounts gained through pub owning companies"

This is laughable, considering the huge mark-up the pubcos put onto the price of beer and other produce to their licensees. There is no better way to deal with the abuse of buying power than allowing all tied licensees the option to have a rent-only agreement and to buy their beer/product from any source.

Then if the large pub owning companies use their buying power and want to make a profit on the mark up through a tied agreement, then they can do so as long as they drop the rent proportionately to compensate – and that becomes an honest and an attractive business arrangement to both sides and one that can work for some licensees.

"Market rent only would put up the price of a pint and harm consumers"

This is as absurd as it is dishonest, considering that it is the hugely inflated prices charged to pub owning company licensees that artificially inflates the price of a pint in tied pubs. A market rent only option would reduce the cost of the pint in most pub owning company pubs as costs would be significantly reduced whether by cheaper (fair) tied rents or, if a licensee chose the market rent only option, wholesale beer prices would drop to in some cases half the current tied price.

"Only tie leases provide a low cost entry to the trade"

It is a complete myth that only tied leases based on inflated product price provide a 'low cost entry' to the trade. A rent-only lease or tenancy, based on the market rent (which is approximately what the pub owning company should take from pub turnover, on any agreement), is equally a low cost way to get into the pub trade. Indeed, with the simpler agreement and commitment, it is more attractive (without being cheaper – if it is fair, it should be about the same) but allows for easier business planning. A market rent only lease or tenancy also provides exactly the same low cost entry to the pub trade as tied agreements, but with more certainty for the landlord, the small business. The initial stock orders in a tied pub are likely to be as much as double the price to the publican as the same stock acquired free of tie, so it is quite possible the start up cost tied exceeds the start up cost free of tie.

"A market rent only option would damage brewing"

Real reform would actually free up and allow the brewing sector to prosper and would lead to many more smaller microbrewers taking on pubs (something that is already happening

but would increase). By allowing for a 'tied market rent only agreement', for brewers only, it is possible to retain the important link between pub owning breweries and their pubs, allowing them to ensure that only their beer (or only their beer plus a guest) are sold in their pubs, with them selling it to their licensees (as would happen in any other trade at a brewery/wholesale price).

Brewers could also of course continue to offer attractive tied agreements, where licensees opt to pay a higher price in return for a compensatory lower rent. This can be attractive to both parties as licensee can reduce fix costs and there is an incentive to attract more customers and sell more product, but overcharging is then prevented through the statutory code (through rent only option or regulatory mechanism).

Dealing with attempts to avoid the code

There are a number of considerations that officials must make to prevent the inevitable attempts of the pub owning companies and BBPA to seek to avoid the code dealing with the core problem – and delivering the prime principle (as they achieved with the Framework Code through refusal to negotiate or include risk and reward).

There may be other things they will do to seek to avoid being caught by the code and proper consideration needs to be made of these during the consultation and the preparation of the legislation. These may include:

- The pub owning companies may seek to restructure/splitting into smaller sub de minimus numbers of pubs to avoid the code. This must be properly investigated.
- It also must be investigated if pub owning companies could seek to redefine their agreements so they would not come under the remit. This is clearly harder if the code covers all tied agreements, as it must, but this does need clear definition. It is also important to consider franchises.
- There needs to be definition of what constitutes a brewing pub owning company, to avoid the situation where large stand alone pub companies simply buy one, or some small breweries then claim to be a brewer.
- If a rent only option is not introduced, the pub owning companies may seek to extract the additional income on a pub through other means. This must be investigated.
- The pub owning companies may present countervailing benefits as part of the value of the tie or may seek to impose other charges surreptitiously in leases, which is why the only two acceptable solutions to this is the market rent only option.

Conclusion - The solution, the only realistic solution

The solution is simple – and a market based one: to give licensees the option of either a tied lease (agreeing to buy beer and other product from the pub owning company and rent) or a rent only (free of tie) (i.e. they pay rent only, at an independently assessed fair market rent and can buy all produce on the open market at wholesale/brewery prices).

This is not 'regulation' or interference in contractual relationships, it is a simple mechanism that would reintroduce competition into the sector as well as stop the ongoing abuse of small businesses by offering them a choice – and an assessment of market rent.

This is effectively a self regulatory mechanism. If the tied agreements are fair and competitive then tenants will seek to remain in such agreements rather than go free of tie.

If an offer of a free of tie option with an open market rent assessment were made mandatory, there would be no necessity for Framework or Company Codes, Pubs Independent Conciliation and Arbitration Service, Pubs Independent Rent Review Scheme or accreditation.

This is not abolishing the 'beer tie', it is simply ensuring that pub owning companies can no longer overcharge their tenants with the double whammy of extortionate beer prices and high rents. Tied leases remain an option, but would again be what the tie is supposed to deliver – a lower than market rent in exchange for paying higher beer prices. That can be attractive to tenants as it lowers their fixed costs, but the pub owning companies could no longer overcharge, as the market rent figure becomes the comparator. Managed pubs owned by breweries would of course continue to be permitted to sell only that brewers' beer.

Save the Pub – not the pub owning companies: the clear business and growth case for reform

The giant pub owning companies are effectively insolvent with billions of pounds of debt (Punch Taverns is regarded as a 'zombie company') and have no growth opportunities, indeed are not only selling off pubs but much of their turnover doesn't even go into the UK economy, but goes straight to their creditors, some of whom are based abroad. The pub owning companies are preventing growth that could take place with more pubs being run by small pub companies run on a different model, micro breweries and entrepreneurs all of whom are taking on and making a success of former pub owning companies pubs, but often they are prevented from doing so by deliberate sale for alternative use or development or through restrictive covenant, which remains a problem.

Smaller pub operators are taking on pubs, but the market cannot be the solution in most cases unless the pub owning companies choose to sell – and often they sell viable pubs for development or for alternative use such as supermarkets – an unnecessary loss of a small business and a community facility.

To rejuvenate the stifled sector, we need stop the double rip-off, the extraction of too much turnover in unfair rent and overpriced products – and allow tied pubs to compete with managed and freehouses (notably figures show are that both sub-sectors are doing much better) – and at the same time encourage more diverse and local ownership of pubs which boosts local economies, as well as growth in the sector – and for the economy as a whole.

Concluding comments

The pub owning companies and the British Beer and Pub Association have had yet another year to try to regulate themselves, after the 14 month last chance they were offered. They have failed again. Surely the Department for Business Innovation and Skills are not going to allow them yet another final chance to regulate and police themselves?

It is clear where the blame lies for the skewing of the tied system that has led to the abuse of this relationship, so expecting these companies to regulate themselves on this issue is unacceptable. Legislative change, including a mandatory and enforceable code of conduct, is essential.

Governments can and do regulate commercial relationships (for example, banks, media, supermarkets) and relationships between landlords and tenants. The Coalition Government notably is legislating to curb the powers of the giant supermarkets to stop their exploitation of small businesses.

The solution is clear. It is the one proposed by the Select Committee.

We need a market rent only option that is the only way in reality to enshrine in law the 'prime principle' that the tied licensee should not be worse off than the tied licensee.

If this Government truly cares about pubs, about small business and about fairness – it must now do the right thing and the only credible thing – and introduce a market rent only option and at last deal with this issue that has caused such damage to so many pubs, to too many lives, to the pub sector and the UK economy for too long.

Parliamentary Save the Pub Group
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