



Department for Business, Innovation & Skills

Pub companies and tenants - A government consultation

Response form

The consultation will begin on 22/04/2013 and will run for 8 weeks, closing on 14/06/2013

When responding please state whether you are responding as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents by selecting the appropriate interest group on the consultation response form and, where applicable, how the views of members were assembled.

This response form can be returned to:

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

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

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	<input checked="" type="checkbox"/>
Trade Union	<input type="checkbox"/>
Interest Group	<input type="checkbox"/>
Small to Medium Enterprise	<input type="checkbox"/>
Large Enterprise	<input type="checkbox"/>
Local Government	<input type="checkbox"/>
Central Government	<input type="checkbox"/>
Legal	<input type="checkbox"/>
Academic	<input type="checkbox"/>
Other (please describe):	

The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses.

Consultation questions

Q1. Should there be a statutory Code? Yes

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. It should be all pub companies as I'm sure that the clever people at Enterprise will have already considered ways of splitting up their pubs into companies of under 500 pubs in order to bend the '500' rule

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? No views

Q5. What is your assessment of the likely costs and benefits of these proposals on pubs and the pubs sector? Please include supporting evidence. Evidence on cost savings is simply pubco price list versus a national wholesaler like Costco or Bookers and is readily available. As a rule of thumb as why operators are prepared to give Enterprise annual sums of £5,000 up simply to be able to be free of tie on wines, spirits and minerals.

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

My own experience is only based on Enterprise who appear to treat their tenants as if they were managers as opposed to self employed entrepreneurs. They adopt heavy handed policing tactics to keep tenants in line and as a result the relationship between BDM and tenant is seldom one of partners working together for mutual goals. Enterprise themselves will need to make a cultural change or early days after deregulation will be those of conflict

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* Yes

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 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 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, but drinks should only be tied at open market prices*

iv. *Provide a 'guest beer' option in all tied pubs. Yes, but it shouldn't be necessary if pubs are free of tie*

- 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, but flow monitoring equipment should not be necessary*

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

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

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

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? End compulsory buildings insurance and payment thereof and allow tenants to obtain quotes on the open market

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

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

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