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From:

Sent: 14 June 2013 13:06

To: Pubs Consultation Responses

Subject: Submission to Consultation - re: Pubco Inquiry

I am years old, have spent almost 35 years in the Hospitality industry - 20 years of that in self-employment and 6 years as a multi-site operator of three Enterprise Inns properties, initially Tenanted Management Agreement with two converted to full-repairing lease.

SHOULD THERE BE A STATUTORY CODE WHICH INCLUDES A MARKET RENT-ONLY OPTION? ABSOLUTELY, YES.

The Beer-tie has been mightily abused by pub-owning companies such as Punch Taverns, Enterprise Inns and Admiral Taverns and now it would seem, some of the larger brewery-owned operations are getting in on the act, too.

At its inception as a trading condition of a brewery-owned premises for the sale and supply of its own beers, it was an acceptable position.

As a tool of FINANCIAL EXTRACTION by property-based pub companies who provide little by way of service or production, it is nothing short of a National disgrace. It is now sad to say some of the larger, more respected brewing companies are taking a keen interest in leasing rather than managing properties, in an effort to save on staff costs, utilities, and property maintenance - and create a profitable income stream from premium priced run-of-the-mill beers.

FOUR successive Select Committees cannot be wrong in finding the pernicious activities of the largest of these non-brewing pub companies to be "found wanting". Equally, the so-called Self-regulation introduced was never really going to even paper over the cracks - it was a cynical time-wasting exercise on the part of the BBPA and its members to carry on, regardless. The most recent dispute as to whether the Codes were legally binding, is a perfect example of this.

These companies have continued to trade, from their position of massive indebtedness, in utter contempt of Government. Has any other Trade Sector been able to flout the will of Parliament for so long?

The ruination of thousands of small businesses up and down the country, the CHURN, lies squarely at the door of these companies. They are totally aware that the balance of RISK AND REWARD is entirely weighted against the small operator.

My three houses, all previously churned - and all churned at least THREE MORE TIMES EACH in the intervening six years - contributed over one million pounds of profit to Enterprise Inns. I ended up bankrupt to the tune of over one hundred thousand pounds - my principal creditor was HMR&C. Enterprise continued to market my 'lease remaining' for a sum in excess of one hundred and thirty thousand pounds - did the Official Receiver have a claim on that, or any of the thousands of other similarly-placed former tenants of Enterprise, Punch, et al?

Would any new Statutory Code include some kind of anti-Churn measure, for the protection of Treasury payments?

The 500 rule - I find to be rather arbitrary. Could the Code be applicable to any pub company of over a certain size who doesn't brew beer? Why should a property company with NO PRODUCTION be allowed to 'tie' a third-party product?

Leased and Tenanted operations - should each be subject to similar conditions but with extra guidelines for those on FRI leases to help avoid the pitfalls of Dodgy Dilapidations. For example, where monies are retained or charged for works previously charged and not completed, and the scandal of the same charge being continually raised on the outgoing AND incoming tenant.

Do not be fooled by claims of FRANCHISED OPERATIONS - for 'royalty' read 'tie'.

Over-arching principles - who could possibly argue against the principle of FAIR AND LAWFUL DEALING? If we had that - we would not be where we are now.

Monitoring equipment - Brulines. In petrol stations we buy litres, with confidence, from a tried and tested - and well-calibrated despense - subject to testing by Weights & Measures.

In a pub we buy pints, with confidence, in a lined or stamped pint measure. Yet our so-called business partners can saddle us with a flow-monitoring system - maintained and run at our expense - over which we have no protection in terms of calibration or governance by Weights & Measures. The data collected - and sometimes even ESTIMATED - can be used to levy fines, sometimes running into tens of thousands of pounds. Those fines can then appear on tenant statements as ARREARS OF RENT thus putting the tenant at risk of eviction. A 'fine' way to run a 'retail partnership'.

As recently as last Sunday June 11, the CEO of the BBPA (which represents 90% of pub-cos - not pubs) claimed, on the BBC, that her members did not like to lose their 'retail partners' - it 'costs thousands' to replace a 'failed tenant' - I fear Brigid may be listening to too much pubco propaganda. The CHURN is a regular self-financing and profitable way to recruit new blood with deposits retained, F&F claimed and re-sold or rented, Dodgy Dilapidations levied, and tenant's improvements acquired by way of 'Landlord's Fittings'. The recruitment of new blood is even advertised as 'self-employed business opportunities' at local Jobcentres - with an assurance of 'subject to National Mimimum Wage'. Does the Abolition of Slavery not apply to pub tenants?

Ted Tuppen of Enterprise was recently quoted as saying "...those joining the campaign against the tie were landlords who had failed - if you are doing badly you become a campaigner." I did not fail - I was FAILED by my retail partner.

Half-year profits at Enterprise recently saw profits plunge from £64million to £29million.

Is Ted set to become a campaigner, too?

The large pub companies take far more than is fair or sustainable from individual pub profits. The introduction of a Statutory Code needs to redress the balance of RISK AND REWARD. The combination of HIGH RENT and HIGH PRICES without any countervailling benefits cannot be allowed to continue.

There has been a lot of comment in the media about tenant earnings - arguments about the ability of a tenant to earn a figure akin to the Minimum Wage - and indeed whether that should be shared

by a couple, EACH working in excess of the hours of any Working Time Directive - never any mention of provision for holiday pay, sick pay or even paid days off as would be afforded to a worker on NMW.

I have yet to hear an argument suggesting that any self-employed tenant could even dream of earning enough to be able to contribute to a personal pension plan.

The POVERTY OF THE PUBCO LANDLORD - and the cost to society - needs to be seriously addressed.

The Statutory Code may just, give hope for some.

Sincerely,