

## Pubs Consultation

### Consumer and Competition Policy

Department for Business, Innovation and Skills

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### Responding as an individual – Small enterprise

- Q1 Yes Pub companies have repeatedly demonstrated that they cannot be trusted to properly regulate the industry.
- Q2 Yes This represents 89% of registered complaints to the Bii hotline over a 3 year period. Remaining 11% should be monitored and acted upon if a problem is highlighted.
- Q3 Yes
- Q4 Exactly the same principles to be applied.
- Q5 Pub Companies are paying lip service to the current codes of practice, and the existing system for resolving differences is very lengthy, time consuming and expensive for tenants to pursue. In my experience the Pub Company distorted figures during the rent review process, in particular turnover and barrelage were exaggerated whilst costs to the business were minimised and VAT misinterpreted. It seemed that whatever figures were inserted into the Pub Companies computer program for calculating the rent, the outcome was basically the same i.e. current rent to be maintained. Eventually we were forced to go to PIRRS to bring the matter to a conclusion.

‘Without prejudice’ offers by the Pub Company meant that their calculations could not be properly challenged when PIRRS examined the rent and consequently they were able to shift their position to suit whatever distorted outcome that they wished to achieve. It would be useful if the Adjudicator could examine all rent related documents, particularly when one of the parties is claiming that incorrect data is being used for the purpose of calculations and may seriously affect the rent value.

I would hope that an Adjudicator could accelerate the rent review process and save the industry from wasting precious time and money as a consequence of exaggerated claims and counter claims made by Pub Companies in order to justify their position.

It is vitally important that a fair partnership exists between Pub companies and Tenants, the current situation is very one sided and many tenants are working long hours for less than minimum wage whilst some Pub Companies are making healthy profits at the Tenants expense. It surely cannot be right that the Government is subsidising the industry by paying working tax credit to many pub Tenants. 46% of Tied Tenants earn less than £15,000/year.

When we went through the PIRRS process the rent calculations submitted by both parties followed the Code of Practice recommendation of a % divisible balance based upon estimated profit. Currently we are operating on a ratio in favour of the Pub Company. This is shocking when you consider that the PIRRS ruling was in

Q6 There is little confidence in the industry regarding Pub Company self-regulation; they have reluctantly issued Codes of Practice and in my experience have bent the rules beyond recognition to their advantage.

Q7 i) Yes It is unfair to Tied Tenants if products are over-priced by the Pub Companies and that as a consequence of this the Tenant is forced to reduce their margin in order to remain competitive. Tenants are taking the risk whilst the Pub Company maintains its full profit.

E.g. If we examine what happens in my own pub to demonstrate my point. If we consider Foster's lager and a 50%GP, discount is £82/barrel (not changed for 2<sup>1</sup>/<sub>2</sub> yrs)

Selling price to achieve expected %GP would be £3.36, nearest competition in our locality sell lager at £2.95, £3.05, £2.00, £2.20. How can we possibly sell lager at its proper price and stay in business. Result of this situation is that we are forced to reduce margin and our own profitability. During the rent review we were expected to maintain/increase turnover and barrelage, we were also criticised for a drop in %GP.

The effect of the above situation is to reduce the overall profit of the business and will have resulted in many Tenants suffering financial hardship. Pub Companies refuse to take responsibility and disregard the necessary action taken by Tenants when they review rent.

ii) Yes

Q8 i) Yes

ii) Yes

iii) Yes Currently we are tied on all games machines and are subject to the terms of the contract between the Pub Company and the machine provider. The Pub Company receives an income for doing nothing whilst we, in the case of Quiz machines, make a small loss and yet have to keep records, provide electricity, submit paperwork and pay HMRC. This cannot be fair.

iv) Yes This would help to increase competitiveness of Tied Pubs and allow them to source local products which are popular with customers; in addition it makes environmental sense when compared with transporting beers the length and breadth of the country whilst we have small breweries with excellent products within a few miles radius of our Pub.

v) Yes Equipment accuracy cannot be guaranteed

Q9

Annex A 25 Discounts should be subject to annual increases in line with a stipulated index. This would negate the necessity to constantly apply for increases in discount to cover the effects of inflation etc. If a discount is awarded by a Pub Company then surely it makes sense to maintain its value by coupling it with the annual increases in wholesale prices. This should not affect changes to discount which may be brought about by changes in circumstances or trading conditions.

Sample rent assessment statement It would be useful if Pub Companies and Tenants instructed its accountants to standardise headings and categories detailed in the statement. During negotiations with our Pub Company during the PIRRS process the Pub Company used completely different headings and recorded items into different cost centres with the result that figures became difficult to understand because they were exaggerated and distorted. Confusion reigned in areas which could easily have been agreed, it also resulted in figures being disguised and easily manipulated. Our accountants were appointed by the Pub Company and I'm sure they would have been providing data in accordance with the Pub Companies specification.

unsubstantiated figures included on a whim to suit the short term needs of the Pub Company should not be included.

Calculation of how the GP% was calculated should be provided by the Pub Company during the rent assessment, the Pub Company used its own computer based calculation during my assessment in and the values were exaggerated causing concern and a great deal of confusion during negotiations. This will be particularly important if we are to make a comparison with 'free of tie' option. Please examine my response to Q7.

The statement is easy to follow up to the Rental Bid values B and B', simplification would be needed beyond this point and I'd be struggling to understand what rent I'd be paying. Whether it was the rental bid or the net post rent balance. This needs clarification.

Q10 Yes

Q11 Yes Good for Tenants, customers and the local economy

Q12 One of the main problems that Tied Tenants face is that they are held at the mercy of the Pub Companies and consequently are unable to compete or respond to local competition. In a true partnership each member would have a stake in the business and be concerned about its profitability and long term future. This is not the case with the Tied pub model. I believe it would be fairer to Tenants and better for the pub industry in general if tied products could be sourced from suppliers other than the Pub Company. This would increase competitiveness and allow tied pubs to better respond to the challenges it faces whilst maintaining the brewers access to the market.

My daughter was recently on holiday in Tenerife and called into a local pub which stocked John Smiths and Foster's lager. She was surprised to find that they were selling it cheaper than we do in our own pub (which is tied to the same brewery) yet they had to transport it half way around the world. Surely something is going sadly wrong.

Q13 Yes

Q14 i) Yes

ii) Yes

Q15 i) Yes

ii) Yes

iii) Yes

Q16 Yes

Q17 Yes      Virtually no impact. The cost of the levy would reduce in time as Pub Companies complied with the code and the industry in general became better acquainted with its implementation. Should a Pub Company be found to be in breach of the code then any fines could be fed back into the system to ensure costs to compliant Companies was minimised. I do not feel that it is appropriate for the costs of the Adjudicator to be passed on to Pub Tenants or customers but that it should be wholly paid by the Pub Companies. Ultimately it is because of their actions that we are now having to change the code and overwhelmingly I suspect they will be the organisations who will try to find ways around its implementation.