

583

From:
Sent: 14 June 2013 23:28
To: Pubs Consultation Responses
Subject: Written Submission for Pubco Reform
Attachments: BIS Submission.doc

This is my written response to the Statutory Pub Code Consultation. I have also completed the Pubco Reform Survey. The attachment is further evidence, which is still relevant today, that I sent as part of a previous submission. I have concluded with a Summary from the viewpoint of being a Scottish Tenant which is highly relevant.

My name is _____ and I am Licensee of the _____ Scotland, _____ and a Greene King tenant. I am _____ the Scottish Licensed Trade Association (SLTA). I am also a member of CAMRA. I have been licensee of the _____ for _____ years, have seen and been part of the unfairness that the lease/tenancy system brings.

In _____ my _____ and I took on a second pub in _____ - a Bass lease, encouraged by the success and fairness of McLays, landlords of _____. Due to Bass _____ the figures at the onset, by _____ we lost everything, including the £10,000 security bond. We went to court but never stood a chance against such a big player. Legal aid was refused - an unincorporated partnership, eventually gave up and my _____ effectively lost _____ redundancy.

Tenants from Enterprise Inns, Scottish & Newcastle, ourselves, among others took the case of unfair leases, due to the tie, to the European Court - no success there either.

In 2001, Belhaven bought over McLay's, then Greene King bought over Belhaven. We strive to have a high standard for the _____ despite lease restrictions making it difficult but pubcos have lost sight at how hard they have made it for their tenants. I specialise in Real Ales, have won many CAMRA awards and can buy them cheaper from other suppliers. This is hardest one to swallow given my success in this field. (Excuse the Pun)

Below are examples of price comparisons. The Free Trade Prices were supplied by a colleague in the trade.

	Greene King	Free Trade
Tennent's Lager	£133	£81
Belhaven Best	£106	£76
Guinness	£140	£105
Clydesdale Ale	£107	£74
Case Corona	£29	£20
Case Magners	£22	£14

Rents are over priced for many, making RV's artificially high. I am subject to an annual RPI increase. In 20_____ Belhaven proposed a £70,000 (£7000 rent increase) refurbishment. We did the job for £20,000 with a £10,000 rentalised loan increasing it by £1000. Building

Insurance is arranged by Greene King and recharged to the tenant. £50 per month licensing costs are also charged.

In 2001 when Belhaven took over from McLays a bonus scheme was introduced at £30 per barrel, £20 of which was accrued for tenants' improvements, the other £10 accumulated and paid annually to myself. By 2007, this bonus scheme was stopped.

Many leaseholders/tenants thought it was a chance to owe their own business, a step up from being a pub manager. Tuppen, CEO of Enterprise Inns stated that the lease model is at the heart of the pub industry, the reality is that in a heartbeat many would jump at the chance to become a manager or get out altogether but because of the lease system their lives are trapped. I would be better off being a manager!

In 2009 Belhaven Managers: - Could earn up to £28,000pa +bonuses, entitled to 6 weeks paid holiday a year, set hours - 45 per week, members of BUPA, in a Pension Scheme and qualified for a Staff Discount up to 40%.

By 2012 my GP dropped to 12% down 12% on the previous year resulting in a loss, for the first time ever, of £8K. Had I been free of tie working off 60% GP, profit would have been £23K and Working Tax Credits to give us a living wage would not be necessary. As self regulation has failed so it's time for a **statutory (legally binding) Code of Practice for pubcos**

In Summary

"My entry into the pub trade as a Scottish Tenant in the early 90s and for many years was fair, workable and enjoyable. As the large Pubcos became more prevalent in the Scottish licensing arena, with buyouts of smaller players, I became a tenant of a large English Pub Brewery company.

While I still enjoy the concept of running my own business and being a publican, today's endless struggle to sustain it only produces pressure and worry. This is reflected by the following: My 1st year of trading GP was 47% and Profit 28%. Last years after 21 years of trading GP down to 12% and a trading LOSS resulted.

I accept the principle of the tied system but the divide between what a tenant/lessee pays for products and a free of tie operator has increased vastly in recent years. When you are charged over £100 for a firkin of ale that can be purchased for around £70 it shows clearly this vastly increased divide. The countervailing benefits with a lower than market rent, originally associated with a beer tie, are no more with rents considerably higher than on the open market. A free-of-tie option with a fair market rent would be a more favourable option for myself. For those who wish to remain tied a Guest Beer Option should be offered opening up the market to the smaller brewers who, in the case of Greene King, charge them £50 per ale to include them on their product list. It is obvious from this that self regulation has not worked, we need a legally binding statutory code of practise for the large pubcos.

The recent statutory pubco consultation, introduced by the UK government to reform the pubco tie, has stated Scottish Tenants are not included as it is a devolved matter. (It is currently being considered whether to extend it to Scotland.) The plight of the Scottish Tenant has not been widely recognised in Scotland as up until now they have been included in the UK campaign. Pushing for a fair deal for your local in Scotland will help show that we need to be given the same consideration as fellow licensees of the same large pubcos that operate south of the border.

I welcome the consultation but I am deeply concerned that after years of campaigning the Scottish Tenant will miss out. So, as well as continuing our campaign for a tied licensee to be no worse off than a free-of-tie licensee we must now also fight to ensure Scottish Tenants are fully represented in this.

When pub closures have increased from 18 to 26 per week there can be no better time to demand a fair deal for your local so that fair competition is returned to the licensing arena and great operators within

the tenanted estate can operate on a level playing field, which ultimately gives the consumer the choice he is entitled to.

Regards

Greene King Tenant

This email was received from the INTERNET.

Communications via the GSi may be automatically logged, monitored and/or recorded for legal purposes.

20th June 2010

To the Clerk of the
Business, Innovation and Skills Committee
7 Millbank
House of Commons
SW1A 00A

Please find attached the latest documentation from my Landlord.

If this is a result of the recent Pub Companies Inquiry how can the tone set in these documents be anything more than detrimental to the partnership of Landlord and Tenant. Their assumption that all their tenants are 'buying out' and that Dray deliveries are 'dodgy' should surely be ringing their own alarm bells – perhaps they realise that their vastly inflated prices to their Tenants is the problem.

The so-called countervailing benefits are quite simply a mask for the main issue of the excessive pricing of beer and drinks imposed on Tenants by their Landlords.

Below is an example of what I paid for a firkin of Wells & Young's Waggle Dance, this month, and what a free of tie publican could purchase it for, from Waverley TBS. I have many more examples of extreme pricing differences if needed.

Hydes Original Bitter 3.8% A classic English session bitter with a great heritage. Ingredients: Crystal Pale and Pale Ale malts, English and Cuckoo hops. Product Code 91314 £52.50 £0.73 £1.75	Everards of Leicestershire Whikatu 3.7% Devised using historic Harvey's recipe this bitter is a classic dry, bitter taste. With hints of gooseberry and lemon. Whikatu is a delightful mix of malt and hops. Ingredients: Choice barley and malted barley, Nelson, Torque and Challenger hops. Product Code 91315 £68.00 £0.94 £2.27
Beartown of Cheshire Kodlak Gold 4.0% Well-balanced, straw-colored and very drinkable. A citrus fruit and hoppy aroma, leading to a strong, bitter, clean character. Ingredients: Kona Beer Pale Malt, Gold and Silver malts, Challenger hops. Product Code 91316 £65.00 £0.90 £2.17	Wells & Young's Brewing Co. Waggle Dance 4.0% Devised with real honey this delicious golden ale has tantalising honeyed aromas, tempered by a grassy, honeyed nose, all leading to a lovely balanced, fresh, delicate flavor of hops. Ingredients: Pale Malt and Crystal malt, Gold, English and Challenger hops, 7 authentic locally sourced honey. Product Code 91317 £62.00 £0.86 £2.07

BELHAVEN GROUP
www.belhaven.co.uk

Belhaven Sales Invoice

Invoiced To:		Delivered To:		General Information				
703336	9gl Kelburn Goldhops 3.8		1 TB	90.24	90.24	20.00	18.05	108.29
704375	9gl Youngs Waggle Dance 4.0		1 TB	104.15	104.15	20.00	20.83	124.98

VAT Reg No. GB 849 755 555
Registered in England. No. 5265451
Westgate Brewery, Dury St Edmunds, Suffolk IP33 1QT
Greene King Retailing Limited - Belhaven

Totals

Continues..

All sales are made subject to the Company's Standard terms and Conditions of Sale, a copy of which is available on request. Please note for the purposes of service quality and training, all calls are recorded.

From 1st June 2011, all orders must be placed via the Waverley TBS online system. All prices exclude VAT. No further discounts apply. E&OE. Prices subject to Duty Excise changes. Please place orders for Cask Beer early as demand may mean they are not available towards the month end. Caskiers should be for indication purposes only, and may not be an exact match for beer colour when in glass. Offers available from 1st - 30th April 2011. For further depot information and online ordering log-on to www.waverleytbs.co.uk or waverleytbs@tbs.co.uk.

I have had no information or dialogue with either the BII or my Landlord on any of the points raised under this inquiry.



10th May 2011

Dear

Please find enclosed a copy of our new guide to tie compliance. Belhaven is now employing the services of the Brulines Customer Account Managers (CAMs). They'll be working as our representatives and you can expect occasional visits from them (even if your pub does not have the Brulines system).

To this end we thought it would be best to highlight in the attached brochure the way that Belhaven will be managing tie compliance in our estate so that there is no confusion and that we are being as transparent as we can in helping all of our licensees to understand their obligations.

You are required to provide access to all areas of your premises to the CAMs. This would entail access to the cellar and other trade areas at any reasonable time. The CAMs will:

In pubs with Brulines kits:

- Highlight ways in which you can access and use Brulines data to help you run your business more effectively
- Discuss with you any Brulines data, pertinent to your pub, including stock and order patterns, variances, Etc
- Check that the Brulines equipment is recording accurately.

In pubs without Brulines kits:

- Inspect any part of your pub, including the cellar, bar, servery and any storage areas
- Record all stock on site.

As you are aware, as a Belhaven Licensee, you have the responsibility to ensure that your tied products are purchased from Belhaven. It is also very important that your Operations Manager or Brulines CAM carries out cellar checks, as any product found on your premises without this packaging, where you are tied for it, will be charged to your trade account and is a breach of your Agreement.

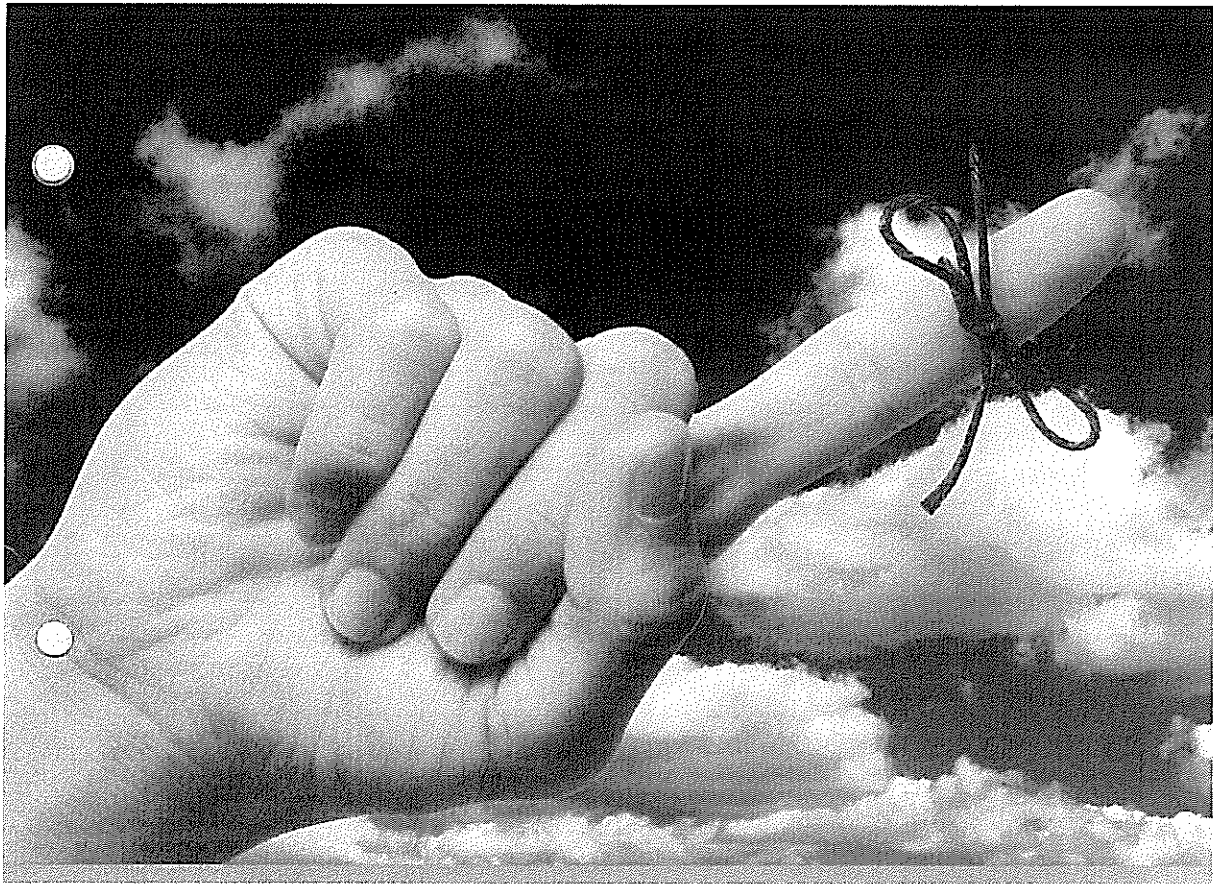
Should you have any questions please do not hesitate to contact your Operations Manager

Yours sincerely

Alan D Keir
Director of Leased Pubs

THE BELHAVEN GROUP
1 LOGIE ROAD, STIRLING, FK9 5JU SCOTLAND
TEL: 01786 463074 FAX: 01786 450279
www.belhavenpubs.co.uk

GREENE KING BREWING AND RETAILING LIMITED. REGISTERED IN ENGLAND NUMBER 3298903. TRADING AS THE BELHAVEN GROUP.



GUIDE TO PURCHASING OBLIGATIONS

ALL ABOUT YOUR TIE

and what happens if you Breach your Agreement with us

VERSION 1.0 May 2011

ESTD 1719
BELHAVEN
A GREENE KING COMPANY

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Using this document

Throughout these pages we use the word Licensee to refer to both a Tenant and a Lessee.

I: About your Tie

I.1: Introduction

When you take an Agreement with Belhaven to run one of our pubs, we will also detail what products you are obliged to buy from us throughout the period of your Agreement. This arrangement is referred to as the Tie.

The Tie is a fundamental part of your Agreement.

It's your responsibility to make sure you comply with your purchasing obligations.

I.2: Dispense monitoring equipment

We install dispense monitoring equipment in most of our pubs. The system we mainly use is supplied by Brulines.

Dispense Monitoring Equipment:

Brulines equipment installed in your pub uses a mobile phone technology called GPRS (mobile signal dependant) which allows near instant access to your dispense data via the internet.

This means that wherever you are in the world, provided you have access to the internet and know your Username and Password, you'll be able to see the actual dispense in your pub up to the last 15 minutes! This facility can give you peace of mind when you are away from the premises.

The high level of accuracy and repeatability evidenced by the National Measurements Office throughout testing confirms that Brulines' systems are fit for the purpose of draught dispense monitoring operations including the provision of accurate raw data, trend analysis and ultimately providing the operational transparency required to manage draught beer tied compliance.

Brulines Customer Account Management:

Belhaven is now employing the services of the Brulines Customer Account Managers (CAMs). They'll be working as our representatives and you can expect occasional visits from them (even if your pub does not have the system). You are required to provide access to all areas of your premises to the CAMs. This would entail access to the cellar and other trade areas at any reasonable time. The CAMs will:

In pubs with Brulines kits:

- Highlight ways in which you can access and use Brulines data to help you run your business more effectively
- Discuss with you any Brulines data, pertinent to your pub, including stock and order patterns and all product variances
- Check that the Brulines equipment is recording accurately

In pubs without Brulines kits:

- Inspect any part of your pub, including the cellar, bar, serverly and any storage areas
- Record all stock on site.

I.3: Checking that you are complying on draught and non-draught products

Many of the products we supply have different packaging designs from those you would obtain from wholesalers to allow us to monitor non-draught stock. Your Cellar Card will show you the packaging you should receive.

If you are delivered stock with packaging that is different from those shown on

your Cellar Card you must refuse to accept it and contact our Customer Sales team immediately. We will write to you from time to time to remind you of these products and labels and update you on any changes.

All draught containers (kegs and casks) delivered by a Belhaven lorry will

have a security label. If a container does not have a security label, you may accept delivery but you must record this on your Delivery Note before signing. As part of our Business Review meetings with you, we will discuss patterns of dispense versus delivered volumes according to your purchasing obligations.

2: What happens if you Breach your Tie

2.1: If you don't buy stock from us when you have agreed to

Buying stock that you have contractually agreed to purchase from us is a fundamental part of your Agreement. If we believe a breach of your purchasing obligation has occurred, we will provide dispense monitoring information, if available, and at least one other piece of evidence to support our claim. We will request an interview with you to establish whether a Breach has occurred.

We will seek compensation for losses known as 'Liquidated Damages' if we believe you have breached the purchasing obligations within your Agreement. Liquidated Damages will be calculated as detailed in your Agreement and may be charged to your Trade Account. You will be made aware before we do this.

You will be given a 14 day period to have a meeting with your Business Development Manager to discuss your case. You are able to seek independent advice and can be accompanied by a professional advisor at this meeting.

If a Breach is established you will be required to pay the Liquidated Damages within a further 14 days.

2.2: Damage to our equipment

If you are found to have tampered with or bypassed dispense monitoring equipment in any way, we may apply for a Court Interdict with Damages which will enforce your obligation to buy from us and not tamper with the equipment. Alternatively we may seek Liquidated Damages for our losses and may apply for damages to pay for repair and replacement of the equipment.

2.3: Breach of your purchasing obligations – what happens

First Breach

1. Evidence of a Breach is discussed with you.
2. A Breach Notice is given to you, an Administration Fee of £50 applies.
3. You have 14 days to appeal and provide evidence to support this. A meeting will be held during this time, if you request it, with your Business Development Manager.
4. Final decision made. If a Breach of Contract has occurred, agreed Liquidated Damages will be paid by you within a further 14 days of this date.
5. If you decide not to sign the Breach Notice presented to you, we will revert to our Agreement to recover our position.

Subsequent Breach – Court Interdict

1. A subsequent Breach is discussed with you.
2. We will apply to the court for an Interdict. This is an order made by the court to enforce the requirement by you to purchase contractually agreed products from us.

3: Other instances where Breach may occur

3.1: Buying from a third party

Third party purchases are only allowed under exceptional circumstances, namely:

If we fail to supply you

If we have failed to supply to you, or you need a top-up order and we are unable to supply (eg: severe weather conditions) – you must contact your Business Development Manager to request permission to purchase from a third party. Provided that your call is within reasonable business hours, weekdays, your Business Development Manager or other representative will respond to you within that day with a decision.

If we allow you to purchase, we will specify what products and the amount you may buy. This will be confirmed by email or letter. You must print the email or keep the letter as confirmation of the agreement. You will need to provide your Business Development Manager with a copy of the Delivery Note and invoice from the third party the day after delivery.

Failure to provide this will result in us seeking Liquidated Damages for our losses. You must make sure you develop a good and accurate stock control process to avoid top-up orders happening.

We reserve the right to charge for any deliveries required in addition to your regular weekly delivery.

3.2: If we choose not to supply you

We will not supply you if you have a debt and are unable to pay for products you have ordered, and honour any repayment plan that has been agreed. If you then choose to buy from a third party, this will be classed as not complying with your purchasing obligations under your tied Agreement.

3.3 Additional times when you need to consider your Tie

Borrowed or 'free' stock

Your Agreement is clear that you can only have tied stock purchased from Belhaven on site.

If you borrow stock this will be classed as a Breach of your purchasing obligations.

(Please see above details on what to do if you on rare occasions run out of stock and we are unable to supply).

Under certain circumstances we would allow you to borrow stock from another Belhaven outlet, although you will be required to purchase and replace this through your Belhaven account.

Outside bars

We allow you to operate an outside bar facility that is not on your premises.

You are contractually obliged to seek our permission for a Temporary Event Notice for an outside bar. Please refer to your Agreement regarding your requirement to purchase stock from us for an outside bar.

You must put your request for an outside bar in writing to your Business Development Manager and each case will be considered on its own merit. You must not bring onto your premises any stock which you have purchased for your outside bar from a source other than from us. If any of this stock is found on the premises, we will treat this as a Breach of your purchasing obligations.

HERE TO HELP YOU

Customer Service Team numbers:

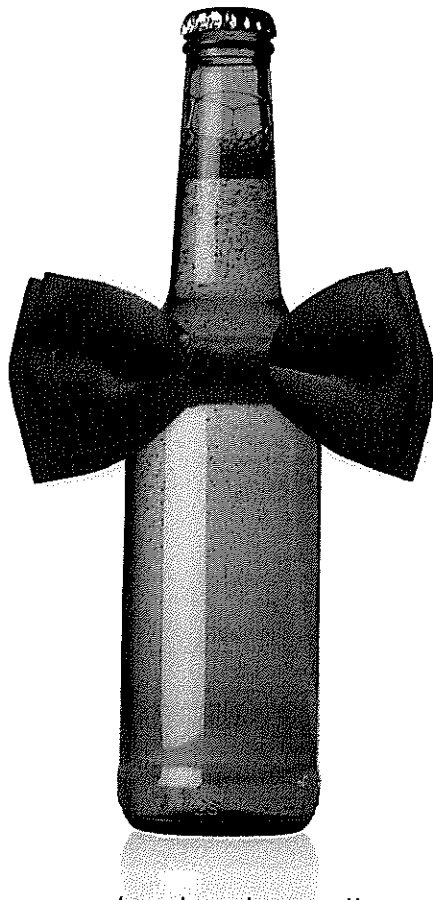
Aberdeen: 01224 896826

Alloa: 01259 728510

Dunbar: 01368 862323



© Belhaven Leased Pubs, 1 Logie Road, Causewayhead, Stirling, Stirlingshire FK9 5JU. Telephone: 01786 463074. Website: <http://www.belhavenpubs.co.uk>



Our packaging is really smart

Belhaven's bottled beer and cider packaging is specially designed so that we can tell we've supplied it

Your guide to Belhaven bottled beer and cider packaging

As a Belhaven Licensee you have a responsibility to ensure that your tied products are purchased from Belhaven Pubs. To help you comply with the Terms of your Agreement, our bottled products have unique markings so that we can tell where they come from:

If on delivery, your products differ from the Belhaven packaging displayed right, **you must refuse to accept the goods and contact the appropriate Customer Service Department immediately:**

Aberdeen: **01224 896826**

Alloa: **01259 728510**

Dunbar: **01368 862323**

Product codes

Delivery notes will show the prefix PPP before the product names.

Please check deliveries carefully to ensure that you have received the correct products from the dray.

BEER


PACKAGING

BOTTLES

BECK'S

PACKAGING: Belhaven packaging has a red stripe around the top of the box.

BOTTLES: Our bottles have a red box around the website address. Belhaven supplies 275ml bottles only.




The image shows a Beck's beer box and a bottle. The box is dark with a red stripe at the top and the Beck's logo. The bottle is dark with a red box around the website address www.becks.co.uk and the text '275 ml e' and 'alc. 5% vol'.

BUDWEISER

PACKAGING: Our packaging is solid bright red with a blue stripe around the top of the box.

BOTTLES: On Belhaven bottles, the year on the Best Before date is written out in full – eg 2009. Belhaven supplies 330ml bottles only.



The image shows a Budweiser beer box and a bottle. The box is red with a blue stripe at the top and the Budweiser logo. The bottle is dark with a label that includes the text 'BEST BEFORE 01 SEPT 08' and '01 SEPT 2009'.

BEER

PACKAGING

BOTTLES

BULMERS ORIGINAL

PACKAGING: Belhaven packaging is solid yellow.

BOTTLES: Our bottles have a red band across the back label. Belhaven supplies 568ml bottles only.



CORONA EXTRA

PACKAGING: Our packaging has a blue band around the front of the box.

BOTTLES: Our bottles have a unique code containing PUBC. Belhaven supplies 330ml bottles only.



HOLSTEN PILS

PACKAGING: Belhaven packaging has a black stripe around the base of the box.

BOTTLES: Our bottle caps have a red stripe around the rim. Belhaven supplies 275ml bottles only.



KOPPARBERG

PACKAGING: Our packaging has 'PRODUCT OF SWEDEN' in a green band around the bottom and 'EXPORT' in the top right hand corner.

BOTTLES: Our bottles have a plain gold cap and 'SERVE CHILLED' is printed in silver.



MAGNERS & MAGNERS PEAR

PACKAGING: Check the corner triangles. For Belhaven, Magners Regular has a cream triangle (not a red one) and Pear has a green triangle (there isn't one on standard packs).

BOTTLES: Our 568ml bottles have E L C O after the date code.



PERONI

PACKAGING: Belhaven packaging has a blue stripe around the box.



What happens if you run out of stock

11:02 AM

If we have failed to supply to you or you need a top-up order and we are unable to supply (eg: severe weather conditions) – you must contact your Business Development Manager to request permission to purchase from a third party. Provided that your call is within reasonable business hours, Monday – Friday, your Business Development Manager or other representative will respond to you within that day with a decision.

If we allow you to purchase, we will specify what products and the amount you may buy. This will be confirmed by email or letter. You must print the email or keep the letter as confirmation of the agreement. You will need to provide your Business Development Manager with a copy of the delivery note and invoice from the third party the day after delivery. Failure to provide this will result in us seeking Liquidated Damages for our losses. You must make sure you develop a good and accurate stock control process to avoid top-up orders happening.

Belhaven delivered security labels

All containers delivered by Belhaven will have a security label.

If a container does not have a security label attached, you have the right to accept the order, however **you must ensure that you have noted this on your delivery note before signing.**

We also recommend that you inform your Business Development Manager.



BELHAVEN LEASED PUBS

1 Logie Road, Causewayhead, Stirling, Stirlingshire FK9 5JU.
Telephone: 01786 463074
Website: <http://www.belhavenpubs.co.uk>