



## 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](mailto: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

Trade Union

Interest Group

Small to Medium Enterprise✓

Large Enterprise

Local Government

Central Government

Legal

Academic

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 without a shadow of doubt**

**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**

**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?**

**The same as tenants**

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

**There will be costs to the pub companies as one of their major revenue streams will be cut but there will be long term benefits all round to the tenant and pub industry. A pub free of tie would be able to compete with supermarkets, provide extra jobs in the industry through increased trade in the pub. A major benefit would be that the tenant would be allowed to compete with other free of tie competitors thus making a level playing field for all. The free of tie would increase footfall in pubs and also by the licensing laws of pubs it would be easier for the publican to monitor drinks consumption and stop the culture of binge drinking in town centres and on streets.**

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

**Self regulation has not worked and will not work it needs an independent government body to regulate the pub industry as a whole.**

**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***

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

**Yes on both points**

**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.***

**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.***

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

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

**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 i agree in the first 4 points but in number v that no flow monitoring equipment should be present in any tenancies wether tied or untied. If pub companies wish to install the equipment then they must pay the tenant a fee per month to encompass rental area took up by the equipment and costs incurred for electricity to the tenant which should again reflect towards the rent as a deduction which if installed should be a fee no more than 50% of the rent paid and no less than 25% of the annual rent paid. This figure would be worked out on annual turnover provided with the benchmark being the lower the turnover the less the pub company would pay the tenant. There should be no flow monitoring equipment in any pubs with turnover of less than £250k per year.*

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

Yes there should not be a machine gaming duty on the tenant this should be paid by the machine games operator. There should be no RPI index increase on rent this should only apply to properties valued at over £1 million pounds which would apply to the very succesful operators this payment should be made directly to the government and not to the pub company.

**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 a review should be made every year for the first 3 years then every 2 years for a period of no more than 4 years to encompass any changes that may occur in the industry. There should be no less than 3 reviews in 5 years.

**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?**

*Yes they should be given a right to buy the property at a fair valuation price with a discount given on the market price much as the council right to buy scheme operated. There should be a maximum discount of up to 4 years and a percentage deduction of no more than 30% which would apply to the open market price and valued by an independent valuer.*

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

yes

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

*i. Arbitrate individual disputes?*

*Yes at all times*

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

*Yes at all times*

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

**Yes the impact of the levy on the pub companies would mean some costs would be passed on to the tennant by the pub company this should be limited to a low percentage ie 1% of the market value rent the tennant is paying.**

**From:**  
**Sent:** 13 June 2013 08:24  
**To:** Pubs Consultation Responses  
**Subject:** Re

---

I understand your regards but i think the becan have done a grate deal for us. We get beer sold to us for cheap, we get the best deals going, and were always informed about new things.  
There easy to call so this means that i can talk to anyone of the management team really easily, I hope this answers you questions and i hope it has been useful for you, Thank you,

Sent from my iPhone

-----  
This email was received from the INTERNET.

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