

FOI Release

Information released under the Freedom of Information Act

Title: Pubs consultation April 2013 — impact assessment

Date of release: 7 August 2013

Information request

The requestor made 120 numbered requests for information relating to the impact assessment (IA) for the Pubs consultation paper. Several of these contain multiple questions. The information requested includes:

- * The assessment of the IA by the Regulation Policy and Reducing Regulation Committees.
- * Evidence for various figures and estimates.
- * Why no detail was included within the full economic assessment of Option 1 of the IA; and why measures to improve communication, information and engagement were not included in Option 1.
- * Evidence to support the contention that licensees are exploited by pub-owning companies; that licensees “will have a greater incentive to invest”; that most investments and innovations need a large input from the licensee; that there has been a reduction in pub-owning companies’ incentive to invest; that the tie is a risk-sharing mechanism; that the risk-sharing element of the tie makes getting a licensee easier; and that both sides have admitted that self regulation can’t address the issue of rebalancing risk and reward.
- * Why the risk of the proposals having a big adverse impact on the pub industry has not been investigated fully; why there was no attempt to monetise the impact of the potential lack of investment from pub-owning companies without the surety of the tie, the potential brewery closures and the resulting loss of jobs and exports; and why the government decided not to investigate the impact on brewers and associated competition issues if Option 3 were implemented. Also, information about the competition law implications of some of the other proposed changes.
- * Evidence for statements about the different characteristics of pub industry leases and traditional commercial leases, and about franchise type arrangements; and about the importance to some family brewers of having a few hundred pubs.
- * Evidence relating to assertions that a limit on the beers stocked and restrictions on décor and branding is a ‘real downside’ for individual publicans; and that “more control is one reason why many of the most profitable pubs are managed pubs”; and the meaning of ‘socially inefficient’ in paragraph 11.
- * Who the ‘many’ tenants are who complain about paying above market rates for beer, how many complaints were made over what period and evidence for ‘abuse’ and ‘poor service’.
- * Evidence for statements about distrust, lack of engagement between the parties and an ongoing entrenchment of views.
- * Evidence relating to assertions about pub declining numbers and closures; and to statements that pub owning companies would rather increase the benefit of the tie to the licensee than abandon it and that the likelihood of them reducing the number of their tied pubs is likely to be limited because of benefits from economies of scale.
- * Information about consistency with and use made of the OFT’s findings, Industry Framework Code, IPPR Survey and other documents.

- * Evidence for comparisons drawn between the Pubs Adjudicator and the Groceries Code Adjudicator and for estimates of the Pubs Adjudicator's expertise, workload and costs and those of the appeal process.
 - * Information about the proposed way of measuring pubcos' increased profits from tenants' investments.
 - * Evidence relating to claims about the benefits of being free of tie and the benefits of the tie to 'struggling tenants'.
- Also sources of all the above requested information.

Information released

This request is one of a number of FOI requests relating to Pubs that BIS has received. Many of the documents provided as an answer to this request are also relevant to the others. Therefore, rather than repeat the same documents many times, documents relevant to all these Pubs-related FOI requests have been listed together in a single file of 149 documents.

The large majority of these documents either have no redactions or only redactions made under s.40 of the FOI Act relating to withholding of certain personal information. However, some documents have been redacted either wholly or in part because of one or more of the other exemptions provided by the Act. Ten documents in the attached file (nos 28-37) contain redactions under one or more of these other exemptions. In each case the document shows clearly where text has been redacted and which exemption is being used.

The exemptions that have been used are as follows:

- * s.21 exempts information from the right of access if that information is reasonably accessible to the applicant by other means.
- * s.35 covers information that 'relates to' -
 - (1)(a)— formulation or development of government policy,
 - (1)(b) — ministerial communications,
- * s.36 exempts information if disclosure would prejudice -
 - (2)(a)(i) the maintenance of the convention of the collective responsibility of Ministers of the Crown, or
 - (2)(b) inhibit i) the free and frank provision of advice, or ii) the free and frank exchange of views for the purposes of deliberation;
- * s.40 exempts the release of personal data where disclosure would breach the Data Protection Act 1998.
- * s.41 provides an exemption if release would constitute an actionable breach of confidence.
- * s.43(2) exempts information, disclosure of which would be likely to prejudice the commercial interests of any person.

We received some questions about the Pubs Consultation which did not request recorded information and were therefore out of scope of the FOI Act. We have

however created a 'Questions and Answers' document – the first one listed in the file of documents – to respond to these questions.