

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

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. This would enable all pub companies to be monitored so that tenants/Lesseees are not taken advantage of.

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.

No. This Code should apply to any size of pub company that can decide rental rates and beer prices. You do not have to be a large company to be unjust.

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?

Absolutley. It is the leased pubs that have the most problems, where rents are extortionate and beer prices are hiked up because the tenant has no alternative but to source the beer from their pub company.

Q4. How do you consider that franchises should be treated under the Code?

Those that have invested money in buying a business should not be exploited, if anything they should have lower rental and beer price reductions due to the commitment their investment implies.

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

Less cost to the Lessee will enable us to pass on cost reductions to customers which will in turn help the economy and keep staff employed. i.e. the better a business is performing the more staff they will keep/employ.

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

Nothing will change an pubs will still continue to close.

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

YES

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

YES

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.

There is a worry that if you start requesting open market reviews the Pub Company will punish you another way even if it is simply not being helpful.

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.

I don't think this will make any difference. Pub Companies will give you the figures they like.

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

Yes. Surely paying rent should be enough. A Lessee pays for the use of the building and should benefit from any trade on that site.

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

YES – by being tied to a Pub Company, even if you have bought your business you are greatly restricted in your product offering.

- 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.**

This equipment is not always correct and therefore Lessees can face fines etc. Until this equipment is proved Fail Safe it should not be used. If Pubs were Free of Tie this would not be required anyway.

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

NO

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

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?

NO other than stringent monitoring of the Pub Companies.

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

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

YES

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?

They should also make an inclusion whereby Pub Companies that are proved not to be following the Code must compensate any Lessees that are proved to be particularly affected.

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 it should.. on one condition, that the cost of this is not passed on to the Lessees like everything else! Those Pub Companies in breach should have to pay a premium, this will hopefully work as a deterrent and ensure that Pub companies abide by the guidelines provided in the code.