

From:**Sent:** 09 May 2013 18:30**To:** Pubs Consultation Responses**Subject:** Pubs Consultation**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.
<input type="checkbox"/> Representative Organisation
<input type="checkbox"/> Trade Union
<input type="checkbox"/> Interest Group
<input type="checkbox"/> Small to Medium Enterprise - <i>i like what you've done there, 2nd generation host that takes more money than most in my local area but keeps little.</i>
<input type="checkbox"/> Large Enterprise
<input type="checkbox"/> Local Government
<input type="checkbox"/> Central Government
<input type="checkbox"/> Legal
<input type="checkbox"/> Academic
<input type="checkbox"/> 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

1. **Should there be a statutory Code?** - I consider myself a newish publican of only 20 years in the trade, and in that time I keep hearing its gotta change, ever since the Government first tried to split the big brewers from holding too many pub and dominating the market, to the current position of the pubco's strangle hold over its lessees, nothing has changed.
1. **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. - I consider all pubs the same and so should the rules and regulations, more than one pub is a pubco.
1. **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
1. **How do you consider that franchises should be treated under the Code?** - Just fair, as in 'fair traders' whom have

a right to buy stock and trade on an open market with a level ground.

1. **What is your assessment of the likely costs and benefits of these proposals on pubs and the pubs sector? Please include supporting evidence.** - Pubco must seek the best lessees for their business, not sit and wait for the next sucker to throw good money after bad on an under invested site, the 'churn-rate' must be at a cost to the pubco. The average price in pubco's to the consumer must be checked and published, how can such a major company force its operatives to sell to the public at such high prices, especially compared to other business on the high street many of whom have much smaller buying power.
1. **What are your views on the future of self-regulation within the industry?** - Has not worked, everyone knows that they are in business to make business and good business decisions for the pubco's, not for the future of the industry.
1. **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
 - i. *Principle that the Tied Tenant Should be No Worse Off than the Free-of-tie Tenant* - yes
1. **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.* - yes
 - i. *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.* - yes
 - i. *Abolish the gaming machine tie and mandate that no products other than drinks may be tied.* - yes
 - i. *Provide a 'guest beer' option in all tied pubs.* - yes
 - i. *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
1. **Are there any areas where you consider the draft Statutory Code (at Annex A) should be altered?** - yes, many other licensed retail outlet manage to trade at a lower average price per pint to the consumer, these average prices must be compared to the consumer prices at pubco outlets. with uncompetitive pricing reported to the monopolies commission and other authorities.
1. **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
1. **Should the Government include a mandatory free-of-tie option in the Statutory Code?** - yes
1. **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 the pubco's know the barrage history of premises and the annual rents paid by many lessees, these should be published in full on all renewal contracts for all to see.
1. **Should the Government appoint an independent Adjudicator to enforce the new Statutory Code?** - yes

1. Do you agree that the Adjudicator should be able to:
 - i. *Arbitrate individual disputes? - yes*
 - i. *Carry out investigations into widespread breaches of the Code? - yes*
1. 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 publish churn rates by premise and dates also ingoing expenditure and any closing debts by outgoing licensees*
 - i. *Requirements to publish information ('name and shame') - yes*
 - i. *Financial penalties? - yes*
1. Do you consider the Government's proposals for reporting and review of the Adjudicator are satisfactory? -
no
1. 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*

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