



PFS/jb

13 June 2013

Pubs Consultation
Consumer and Competition Policy
Department for Business, Innovation and Skills
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Dear Sirs

PUB COMPANIES & TENANTS: A GOVERNMENT CONSULTATION

I write on behalf of McMullen & Sons Ltd, the Hertfordshire regional brewer and pub operator, established in 1827. We operate 140 pubs and employ around 1200 people across our company. Our pub estate consists of 89 managed pubs, 7 franchise pubs and 44 tenanted pubs which all operate under a system that ties tenants to purchasing all their drink products from us with the exception of wines, spirits and minerals. We also brew around 8000 barrels of cask ale p.a. which we distribute to our pubs from our base in Hertford.

We are proud of our reputation, built over many years, of our relationships with all our employees and the fair and transparent dealing with our tenants. We have our own accredited code of practice.

The success of our business is dependent on our ability to recruit and retain good people to run our pubs, either as employees or as self employed franchisees or tenants. We are dismayed therefore that the heavy hand of Government is once again criticising our sector and aiming to destroy the tied house system. **The unsettling consequences of what appears to be the continual sniping at our industry should not be underestimated on the potential pool of good quality applicants to run pubs or on the confidence of pub owners, such as ourselves, to invest in our pub businesses for the long term.** As an industry I estimate that we need to recruit well over 6000 people a year to run pubs and this constant criticism and threat from political interference makes that task increasingly difficult. In fact it is amazing that we still have a vibrant pub sector after so many

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reviews by successive Governments, coming on top of the current unprecedented and particularly challenging economic conditions.

We strongly oppose therefore the imposition of more bureaucracy and a Statutory Code on the industry as proposed by the Department for Business, Innovation and Skills. As members of the IFBB and BBPA our Company wholeheartedly supports both their detailed responses.

I would however like to stress the following points:

1: The evidence to support yet another review (1 or 2 formal complaints and circa 100 enquiries a year to a Bii helpline!) is weak to say the least particularly in relation to our industry's need to recruit some 3000 tenants/ lessees pa. Your 'survey' is biased and consists of 'leading' questions which suggests that you are trying to create your own evidence to support this review – not something a British Government should be proud of, in my opinion.

2: A statutory code aimed at trying "to ensure that a tied lessee is no worse off than a free of tie lessee" would effectively introduce Government, via the new regulator, to the process of determining a 'fair' rent. Point 1 above, alone, should be immediate cause for alarm so **we prefer to see the principle of maintaining negotiation between two commercial entities particularly as the impact of a below average operator on the profitability of every pub is significant and material.** We operate in a highly competitive marketplace and are constantly seeking ways of improving our support to our tenants through benefits that are recognised by the European Commission as Special Commercial or Financial Advantages (SCORFA). Proving the value of SCORFA will inevitably be bureaucratic and impractical.

In the event that a Statutory Code is implemented, we would support the 500 pub threshold on the basis that it includes tenanted and leased pubs only and not managed houses. In theory, therefore, we would be excluded from the impact of a statutory code but **the uncertainty caused by the introduction of such a code will have the immediate impact of us reviewing our tenanted business and in the meantime we would suspend all investment in these pubs.**

3: The introduction of a statutory code will result in yet more bureaucracy and cost onto the 'on trade' (pubs and bars) - a sector that is still reeling from the relentlessly increasing and unsustainable levels

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of taxation. For example; a small McMullen managed pub with gross liquor sales of £6500 per week raises for government around 220% more in total taxes than it makes in profit. As a company, which in addition carries the central overhead cost of supervising these pubs, Government take out of our business over £25m p.a. compared to our pre tax operating profit of some £ p.a. – **an effective tax rate of some 350%!** I am sure you feel proud and productive that since 2006 your tax take has risen by some £7m or 40%! It is probably not surprising therefore that our profits have remained flat over the same period. **Is this what BIS means by 'creating the right conditions for companies to thrive'** and no doubt create new job opportunities!? My final point, therefore, is that **there is a problem with the viability of all pubs, both managed and tenanted.** The problem is crystal clear to most informed observers. **I am afraid it has absolutely nothing to do with the Tie or how it is operated and will still exist even if you succeed in tinkering with the profit split between landlord and tenant.** The problem rests almost entirely on the unsustainable level of total taxation of pubs.

Finally, what a shame that this Government, having achieved much credit for starting the process of reducing taxation of this overtaxed industry (the duty reduction was appreciated), now intends to ruin all that goodwill by causing more uncertainty and further loss of confidence owing to yet another vindictive politically motivated investigation of the Tie.

Yours faithfully

Peter Furness-Smith
Managing Director