
From:
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To: Pubs Consultation Responses
Cc:
Subject: Consultation response
Attachments: 13-718RF-pub-companies-and-tenants-a-government-consultation-response-form.doc



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panies-and-ten...

Sorry - had problems with my email on Friday which have only been resolved today. I hope that you can still include my feedback - such as it is. I am the landlady of a tied pub and just wanted to express my views - I am responding as an individual. I would have liked to have been able to be much more detailed but I trust that the sentiment is clear.

You might be interested to know that my own pub company suggested to all its tenants that they might like to write in to say that there was no need of a code, that it would involve lots of extra paperwork and that the system worked very well as it was. They had drafted a letter that we could send if we would rather not write our own. They also asked that we let them know if we were going to respond. I fundamentally disagree with that approach and fear it is indicative of the type of problems tenants face generally. I would like to add that in many ways the company I am associated with is amongst the better ones - its just that at the end of the day, I am tied on all wet sales and pay a significant premium over free of tie competitors for the same product. Even being free of tie on wines, spirits and soft drinks would make a big difference to me.

I love what I do and comply 100% with my tenancy agreement but I can't make money and am cross subsidising my business from paid work I do for my former company. This is a nonsensical arrangement and I hope that the Code will be introduced in such a way that it changes.

Many thanks

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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 (**Landlady of tied pub**)

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 – absolutely. The way the system works now makes it almost impossible for tied pubs to make a living.

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.

I think that this is too high. Personally if a company has 100 pubs it is obviously benefiting from economies of scale and is benefiting from significant income in rents. 500 sounds quite an arbitrary figure. I would say that any company with over 100 pubs is big enough to be benefiting unduly from the unfair practices in place and as such should be covered by the code. The 500 means that its likely only to apply to national companies. There are significantly sized regional players that should be covered but fall short of the 500.

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 – it needs to work for all outlets

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

To be honest I am not sure.

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

I run a fully tied pub in a village I love and grew up in. I was running a company in for whom I still work a day or two a week remotely. It is this income which keeps me solvent but I should not have to subsidise a pub with paid work from elsewhere. If the price I paid for my wet product was in line with what I could get at a local wholesalers then I would stand a chance. As it is, my business is not sustainable but provides a worthwhile community service. I have come to see it as charity work. The benefit to pubs is that they could perhaps make a fair living. The cost would be that pubcos would need to sacrifice some profit. I imagine that my own pub provides a healthy profit – its just not providing it to me. I suspect, but cannot prove that there is enough money being made from pubs for all those involved to benefit if there were appropriate safeguards in place – which is why I support the Code.

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

I have yet to see good evidence of anyone self-regulating if the outcome is less favourable to them than it was before. I doubt that it makes sense to rely on it if we want a fair outcome.

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

Absolutely. I am tied on ALL wet sales. I'd be happy if I could

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.**

Yes

- 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.**

Yes – but that also needs to include the price of product available to tied versus free of tie

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

Yes

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

Not necessarily – I don't see that as being a requirement – its more that the price of the beer that is available should not be sold at such a premium to the free trade

- 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.**

Agree

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

Not sure

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?

Its not the tie so much as the price of the drinks under the tie that needs to be addressed – so, not necessarily

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?

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: Yes to all

I. Recommendations?

II. Requirements to publish information ('name and shame')

III. Financial penalties?

Q16. Do you consider the Government's proposals for reporting and review of the Adjudicator are satisfactory?

Probably

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?

Makes sense. Can't believe that it would be too punitive a levy so would be a good way to fund it.