



Department for Business, Innovation & Skills

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 16 YRS	LESSEE –
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 DEFINITELY

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.

YES, BUT IT SHOULD APPLY TO A MUCH LOWER THRESHOLD AND COVER BVALL COMPANIES

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

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

AS ABOVE

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

SURVIVABILITY OF MORE LEASED AND TENANTED PUBS – THIS WOULD MORE THAN COVER THE COST OF THESE PROPOSALS

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

ZILCH – PICAS IS KNOWN TO BE A BIASED JOKE – THE PUB COMPANIES AGREE TO YOU THAT THE VOLUNTARY CODE IS LEGALLY BINDING – I KNOW 2 MAJOR CASES (AND THERE ARE OTHERS) WHERE THE CODE WAS ARGUED OUT OF COURT BY PUBCO LAWYERS

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*

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

ABSOLUTELY – SPOT ON

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 PLEASE

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

YES (BUT DON'T AGREE WITH DRINKS TIE)

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

YES, AS A MINIMUM

- 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.*

SUBJECT MONITORING EQUIPMENT TO W&M LEGISLATION/PROVISIONS

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

TO BE ADVISED, ALSO SHOULD NOT BE LIMITED TO COMPANIES WITH OVER 500 PUBS

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?

TIGHTEN UP RICS GUIDELINES AND MONITOR THEIR COMPLIANCE, MAKE IT EASIER FOR SOLE TRADERS TO GET THE CORRECT HELP FROM THEIR PUBCOS/BUSINESS PARTNERS/ WHO GET INTO ANY SORT OF DIFFICULTIES WITHOUT THE FIRST THREAT BEING DELIVERY WITHDRAWALS AND COURT ACTION ON RENT AS WE ARE BULLIED ON THESES SAID ITEMS

Q13. Should the Government appoint an independent Adjudicator to enforce the new Statutory Code?

DEFINITELY YES

Q14. Do you agree that the Adjudicator should be able to:

- i. Arbitrate individual disputes?***
- ii. Carry out investigations into widespread breaches of the Code?***

BOTH, 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?***
- II. Requirements to publish information ('name and shame')***
- III. Financial penalties?***

ALL OF THE ABOVE, ESPECIALLY III

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

YES, THANKS FOR TRYING

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