

## **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](mailto:pubs.consultation@bis.gsi.gov.uk)

**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?**

#### ***Response***

The points in Q12 are already in operation.

This is why.

Pub companies have an expectation of income from each pub based on a magic figure called 'Fair Maintainable Trade'.

For example:

Pub Company assessed income from a premises based on the Company's own calculation of Fair maintainable Trade is (say) £30,000 p.a.

This is collected from the tenant either in rent, higher beer prices or both.

Tenants (of Enterprise Inns) are already free to choose:

- A free-of-tie option and pay £30,000 rent
- A fully tied option and pay £10,000 rent and £20,000 in higher beer prices.
- Any combination of the above (as in my case) where I am free-of-tie for spirits and soft drinks and pay £15,000 rent (£10k + £5k tie release fee) plus £15k p.a. in higher beer prices.

Therefore:

1. A mandatory free-of-tie option will not change the tenant's payments to the Pub Company
2. Higher beer prices are already compensated for by lower rents (or vice versa)
3. Tied tenants are no worse off (or better off) than free-of-tie tenants.

Nothing can be done to improve the lot of the Pub Company tenant until the turnover estimates of Fair maintainable Trade is regulated.

"Fair Maintainable Trade" (FMT) is defined as "the annual level of trade (excluding VAT) that can be achieved by "a reasonably efficient operator of the business". Trade levels assume the property is properly run at all times, is in a reasonable state of repair and that trade levels are sustainable over a reasonable period of time.

Most of the data for FMT was collated before the smoking ban in 2007 which decreased pub turnovers dramatically. Since that time, of course, pubs' turnovers have suffered further from increased costs, irresponsible supermarket pricing and a deep recession.

Figures for FMT, unfortunately, bear no relation to the actual performance of a business, and looks at turnover in isolation – regardless of how much is spent on maintaining you're a pub through a recession, or how much money is spent on refurbishments, marketing, promotions or smoking shelters.

I have been running my pub since 2005 and, I just managed to stay in business through good marketing, smarter working and a costly refurbishment program.

My turnover throughout this 8 year period has stayed constant even though all other costs, including rent and beer prices, have risen. I am worse off *and* working harder.

I have appealed to my Pub Company for help but as my turnover is (and has been since 2008) less than £150k and the FMT figure the Pub Company uses is £260k they claim the high ground.

To illustrate the unfairness of Fair' maintainable Trade: if my turnover was anywhere near £260k I would happily pay the rent and the increased beer prices and few of the issues from this Consultation Document would be relevant.

FMT calculations used by Pub Companies are out of date and not sustainable. All other problems stem from this.