

RECEIVED 02 DEC 2009

Kevin Brennan MP

Minister for Further Education, Skills,
Apprenticeships and Consumer Affairs

The Rt Hon Tessa Jowell MP
House of Commons
London
SW1A 0AA

Our ref: MR/158264

Your ref: 01093538

November 2009

Dear Tessa,

Thank you for your letter of 9 November to Peter Mandelson, on behalf of your constituents, about tied lease agreements. I am replying as this matter falls within my portfolio.

We will be responding to the Business and Enterprise Committee (BEC) shortly and in the meantime we will be meeting with a number of representatives from different sides of the debate from within the pub industry.

On 13 May 2009, the BEC published the results of its follow up inquiry to the 2004 Trade and Industry Committee report on pub companies. One of the BEC's findings was that it believed that the supply tie may be anti-competitive and that the tying of drinks should be limited. It did, however, acknowledge that intervention could lead to unintended and unwelcome consequences and also recognised that the problems of the pub industry do not all stem from the pub model.

On 2 July 2009, the BEC asked that BIS delay its response to its Pub Companies report to allow it to assess the situation again in light of further developments in the pub sector. On 24 July 2009, CAMRA (Campaign for Real Ale) lodged a super-complaint to the Office of Fair Trading (OFT) that included concerns over the impact of the operation of supply ties within the UK pub industry.

During the summer, industry collectively tried to establish an Industry Mediation scheme to respond to the issues highlighted by the BEC report. Although the negotiating parties failed to reach agreement, there are some positive outcomes including the creation of a new voice for consumers, lessees, licensees and small brewers and a commitment to revise the industry's code of practice.

CAMRA contended that restricted and distorted competition within the UK pub market due to the operation of the beer tie and other exclusive purchasing obligations has inflated the price of pub beer. CAMRA recommended that the OFT should carry out a market study into the issues raised by and, following this the OFT should consider making legally binding certain measures in the form of undertakings, and in the event that such undertakings cannot be agreed, the OFT should make a reference to the Competition Commission.

The OFT focuses on whether effective competition can be expected to deliver choice and value to consumers within the beer and pub market. In markets where competition is working effectively, the OFT has no mandate to intervene.

The OFT published its response to the CAMRA super complaint on 22 October 2009. It did not find evidence of competition problems that are having a significant impact on consumers and reached a view that no further action on competition grounds is necessary. Further details about the OFT's response can be found on their website address:
<http://www.of.gov.uk/news/press/2009/127-09>.

The Government is very aware of concerns about the relationship between pub companies and their lessees. We can therefore understand why some parties might be disappointed with the OFT's decision. Only in exceptional circumstances will Ministers overturn an OFT decision, but we will be keeping a close eye on the industry to make sure it delivers on the improvements it has agreed to, and that are needed, to ensure greater transparency and redress. We urge them to build on this over the coming months and will be monitoring this before making any decisions on whether action is necessary.

A handwritten signature in black ink, appearing to read 'Kevin Brennan', written in a cursive style.

KEVIN BRENNAN