**WAIVER FROM MRO OPTION IN RETURN FOR SIGNIFICANT CAPITAL INVESTMENT**

A commitment was made in Parliament to consult on the detail and there are a number of issues that it would be helpful to explore further with you, in advance of drawing up options on which the Government can formally consult. Some questions are aimed at all stakeholders and some are specifically for pub-owning companies.

**It would be helpful to receive a response by Monday 20 July.** Your responses may prompt further questions so apologies in advance. Thank you for your time.

Initial questions for stakeholders:

**What happens now?**

1. Roughly how many of the capital investments made by your company each year in your tied pub estate have a Return on Investment (ROI) period of more than five years?
2. Is an ROI period of more than five years an exceptional circumstance in terms of capital investment in your tied pub estate? Are you able to say what percentage of your tied pub estate has, in the past 5 years, received capital investment where the ROI was greater than 5 years?
3. Where an ROI period exceeds five years, what level of investment would this be for and what kind of investment?
4. Does the ROI period depend on the size of the investment or are there other factors, such as the circumstances of the individual pub or the type of agreement the tenant is on?
5. Is there a separate investment agreement related to the terms of the investment that both parties sign once the details are agreed? Or is it reflected in a new tenancy/lease agreement? Or both?
6. Are there common definitions/terminology that are used or is there a shared understanding across the industry of relevant terms? For example, Return on Investment period; the difference between investment and ongoing repairs and maintenance?

**Qualifying investment**

1. Should there be a minimum threshold/amount of investment to qualify for a waiver from MRO? If so, what should that be? For example, should it vary for different sizes of pub and/or turnover? Would significant investment generally exceed £50,000? Or something else?
2. How should we define “qualifying investment” in the Code, so that it is genuine investment and not repairs and maintenance? What should it not include?
3. What other conditions should the Code provide for in terms of “qualifying investment”? For example, that the tied pub tenant concerned has agreed to the investment and the waiver period.

**Length of the waiver**

1. What should be the length of the waiver period and should it vary for different levels of investment?
2. How should we define from when the waiver period starts? For example, from when the first penny of investment is made or when the project is completed or something else?

**Safeguards**

1. What should the Adjudicator’s role be in waiver disputes? For example, should it be to determine whether the waiver proposed by the pub-owning company complies with the statutory requirements? Should it be to determine whether an investment has been made to the value promised or should that be a contractual dispute between the two parties (rather than a Code dispute?)?
2. What, if anything, should the Code contain about information requirements and due diligence related to a waiver? For example, should the tenant be obliged to take independent advice prior to agreeing to a waiver? Should there be an obligation on pub-owning companies to make tenants aware of the impact of opting-out of MRO?
3. How should the Code treat investments that have had delayed starts, involve more / longer disruption to trade than agreed, are completed late or left partially unfinished, or fail to meet the original specifications?
4. Is there anything else you consider it is important for the Code to provide for in terms of safeguards or more generally in relation to the investment waiver?