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Why the pub beer tie battle is coming to a head



By **Bradley Gerrard**

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Most drinkers probably won't have noticed a recent tectonic shift in the pub industry but a year into major new regulations there are still brawls going on.

For centuries, thousands of landlords have been wedded to the companies from which they rent or lease their pubs through the so-called beer tie to balance inflated beer prices in return for lower rent and investment in the property.

The Pubs Code, implemented last July, meant pub tenants could cut their tie from the likes of Enterprise Inns, [Punch Taverns](#) (<https://www.telegraph.co.uk/business/2017/06/27/heineken-offers-sell-pubs-ease-competition-worries-punch-taverns/>) and Greene King, and pay only rent and buy from any supplier. Pubs have been able to ask for a market rent only (MRO) quote at points such as rent reviews, which enable publicans to compare it alone and remaining tied.

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At a quick glance, it might look like landlords' appetite for striking out on their own isn't there but just like in a local pub, the views about how working are forthright on both sides. Publicans complain of obfuscation by the pub owning companies keen to protect the income they get from their tied tenants while the pub companies say they have worked hard to improve their tied offer, which is enticing landlords to stay.

Some pub companies also privately say they have agreed free of tie deals on the back of pubs asking for a quote on a discretionary basis.

There is also another factor: the Pubs Code Adjudicator (PCA). At its last results in May, Enterprise Inns said 171 pubs out of its 4,200-strong lease estate had been able to ask for a quote under Pubs Code rules. While just four had accepted, 61 of the 105 offers still outstanding were with the

Punch Taverns reported equally low numbers, with just three pubs being able to secure an MRO deal so far.

But out of the 90 publicans who have been able to request an MRO quote, 29 remained under review, which could mean some of them also go to the PCA which is dealing with 27 cases from [Greene King](https://www.telegraph.co.uk/business/2017/06/29/pub-giant-greene-king-boost-sales-brand-shake-up/) (https://www.telegraph.co.uk/business/2017/06/29/pub-giant-greene-king-boost-sales-brand-shake-up/).

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There is a brewing debate about whether the code needs to be tightened up and an All Party Parliamentary Group convened last month to ascertain and identify remedies.

The group, led by Toby Perkins MP, said it would consider asking Paul Newby, the PCA's adjudicator, to attend its next meeting to answer questions sceptical about the code, and who claim tenants asking for a free-of-tie deal are being unfairly dealt with, as well as to ascertain how the disputes have been handled.

The adjudicator's office said in April it had completed 25 cases and had another 97 at different stages of completion. Campaigners such as the i Advisory Service have complained that every decision the adjudicator has made has been done in private, meaning a bank of knowledge is not

The rise and fall of the British Pub

The PCA says the code requires it to deal with disputes via arbitration laws, which enforce confidentiality unless both parties waive this. The authority would publish precedents from arbitrations but that it would take time to build a sufficient number of disputes to do this, something campaigners

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Newby's detractors also claim his links to the pub companies via his previous employer Fleurets, a UK business property valuers and surveyor pubs, hotels and restaurants, means he is likely to favour pub companies in disputes.

The PCA has said Newby had been appointed through an open process and had been "completely open" about the shares he still holds in his firm with details published on the PCA website. A key test could be about to appear as part of the sale of Punch Taverns, whose two divisions are Heineken and Patron Capital respectively.

Some Punch publicans claim the enforced change of drinks distributor could negatively affect their businesses because of longer delivery times. The Advisory Service thinks the change could be a trigger event under the code, effectively allowing tenants to request an MRO quote before time.

Punch says the change is not a trigger event and the PCA said it would deal with complaints on a case-by-case basis, pointing out that pubs need the change would decrease the level of trade in the next 12 months.

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This head-to-head is unlikely to be solved quickly. A report by the British Pub Confederation (BPC) accused the pub companies of various unfair practices including confusing tenants about when they can apply for MRO, the demanding of upfront fees for a rent evaluation and asking for three months advance.

Greg Mulholland, the former Liberal Democrat MP who is chairman of the BPC, said obstructions by pub groups and a growing number of cases at the Code Adjudicator's in-tray meant many landlords simply walk away from the process frustrated and without an MRO offer.

"The simple reality is the Pubs Code is not working as it was envisaged and the main reason for that is the refusal of the adjudicator to do his job," he said. In a PCA paper released last month, it said campaigners had rebuffed offers to engage more widely.

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