

## This Week City & Business

As MPs prepare to investigate to what extent the recommendations of 2004's Trade & Industry Select Committee's controversial report have been implemented, Phil Mellows looks back on what started it all...

# A CONSTANT STATE OF FLUX

TWENTY YEARS ago the brewing and pub industry was, as usual, grumbling. In 1986 the Office of Fair Trading (OFT) had ordered the Monopolies & Mergers Commission (MMC) to conduct an unusually protracted inquiry into the tied-house system and produce a report within two years. We were still waiting, and, the industry complained, all the uncertainty was bad for decision-making, and bad for business.

Still, the anxiety was repressed – by complacency. In the previous 20 years there had been no fewer than 15 reports on the brewing industry from official bodies without much consequence.

And when the MMC report on *'The Supply of Beer'* finally appeared in March 1989 it hit the unprepared industry like a thunderbolt straight out of a clear blue sky.

Sir Ian Prosser, the then-chairman of Bass, the UK's biggest brewer and biggest pub-owner, which stood

to lose most, declared the tenanted system "in grave danger". "The commercial partnership balance has been altered too strongly for the British pub to survive," he warned.

'For a while there was a sense that we might be getting a rich tapestry of small independent multiples that would bring entrepreneurial refreshment to a tired industry. But capitalism's natural drive for consolidation took hold and... well, you know the rest of the story'

Down the years reports of the death of the British pub have been regularly raised – and frequently exaggerated. But the prospect that the six national brewers would have to sell, in a tough property market, 22,000 pubs out of the 34,000 they

owned – plus the abolition of back-door ties through loan deals – was, as can be imagined, shattering.

With typical grim restraint the Brewers Society, the forerunner of

cap would have to sell off only half the number they had above that figure and the loan-tie ban was watered down. Tenants would be allowed a guest cask beer and enjoy

the British Beer & Pub Association, described it as "misconceived, illogical and disproportionate".

Others welcomed it, however. *The Economist* magazine, seeing in it a boost for the small brewers it described as "Thatcherite values in full voice", compared it to the great changes going on east of the Iron Curtain at the time, changes that presaged the end of communism. It was nothing less than "a dose of *perestroika*" for British brewing.

### Compromise

In the event Tory trade secretary Lord Young compromised.

The Beer Orders published the following December said that companies owning more than the 2,000-pub

protection under the Landlord & Tenant Act.

Even so, the result was a restructuring of the brewing and pub industry. Within a few years it became broadly the industry, or rather industries, we have today.

The Beer Orders did not, however, address the issues that prompted the inquiry – the 'complex monopoly' that dominated the market and the price of beer at the bar, supposedly inflated by the lack of competition resulting from vertical integration – the tie.

In 1989 the Big Six, formed out of the wave of industry consolidation in the 1960s, held 78 per cent of the UK beer market. In 1993, a year after selling 12,000 pubs between them, the

### Who were the Big Six?

Bass	7,200 pubs, 4,300 tenanted
Whitbread	7,000 pubs, 4,800 tenanted
Allied	6,600 pubs, 4,200 tenanted
Grand Met.	5,200 pubs, 3,700 tenanted
Courage	5,000 pubs, 4,700 tenanted
Scottish & Newcastle	2,300 pubs, 1,500 tenanted

\* 1989 figures approximate

City & Business **This Week**

The unforeseen consequences of the 1989 Beer Orders are still being felt today

top five (Grand Met had disappeared in a pubs-for-breweries swap with Courage in 1991) had 84 per cent of the market.

Beer prices, meanwhile, continued to soar – seven per cent above RPI in 1991 and three per cent in 1992, before steadying and then rising again towards the end of the decade.

Nice one, MMC. It's no wonder the brewers thought they'd gone through all that grief for nothing – well, not actually nothing; more like £500m, the estimated total cost of compliance.

But the mistake made by industry and legislators alike was to assume that an intervention like the Beer Orders could, in an industry with its own commercial pressures and its own agents of change, have any strictly determinable results.

### Emergence of the pubcos

The big development everybody failed to foresee – apart from the likes of Ted Tuppen, obviously – was the emergence of the independent retailers that became known as the 'pubcos'.

One thing the Beer Orders gave the big brewers was time. Although it wasn't as much as they'd have liked – 30 years, not three, would have been more like it – they had until November 1, 1992, to get rid of their excess houses.

This made it possible to set up a series of deals with 'friends' – frequently ex-employees – who, in

return for a couple of hundred cheap pubs would agree to supply deals that meant they would continue to sell major brewery beers for years to come.

By the deadline, companies such as Tuppen's Enterprise Inns, Centric, Café Inns, Tom Cobleigh, Paramount, Scorpio Inns, Marr Taverns, Sycamore Taverns, Inn Business, Discovery Inns and more, had formed a new force. For a while there was a sense that we might be getting a rich tapestry of small independent multiples that would bring entrepreneurial refreshment to a tired industry.

But capitalism's natural drive for consolidation took hold and... well, you know the rest of the story.

It did bring down the price of beer, but only between brewer and pubco.

The OFT's review of the situation in 2000 (some six years later than expected, on account of waiting for things to settle down) reported that wholesale prices had fallen by 15 per cent in eight years thanks to the discounts the new pub-owning giants were able to demand from suppliers. But after the landlord and licensee had taken their share there was nothing left for the drinker.

### Globalising economy

Another development should have been more predictable. The tied-house system was – and still is, when you remember the survival of regional brewers – a bulwark against

foreign competition. But by the mid-1980s the pressures of a globalising economy were growing.

Trade barriers across Europe were due to come down, coincidentally, in 1992, and the giants of continental brewing threatened to move in on the UK market – a threat which, we now know, they carried out (with a bit of unlikely help from Coors).

In stark terms the Big Six, which suddenly looked rather smaller on a world scale, were faced with a simple choice – ditch their dependence on tied estates to focus on improving productivity or get out of brewing altogether.

Their estates had, in fact, been shrinking slowly but steadily over several years before the government stepped in.

Significantly, it was Grand Met, perhaps the most 'international' of the Six, that jumped ship first. For the other five it was a matter of managing the disposal of their estates and their inevitable integration into global brewing as best they could. The Beer Orders were seen as unnecessary outside interference.

As one unnamed Allied Domecq executive put it after 1992, the legislation "compressed what would have happened anyway into a bloody awful timescale".

As MPs take submissions from pubcos and licensees alike, the ultimate findings of the review process will be keenly awaited. ■

## The TISC report

The pub industry born between 1989 and 1992 is again under scrutiny. The review of the Trade & Industry Select Committee (TISC) 2004 report on the tied house system is due to commence next month.

It is asking whether the industry has gone far enough to meet the TISC report's call for a better deal for tenants including transparency on rent and beer discounts and the end of upward-only rent reviews and ties on gaming machines.

The review is unlikely to go beyond these terms of reference – those calling for the abolition of the tie will be disappointed, this time.

But the review's recommendations will be sharpened by the recession and pub closures. It may well result in statutory measures to enforce a fairer relationship between landlord and tenant if the committee feels the industry hasn't taken the 2004 report seriously enough.

As with the Beer Orders, though, the pubcos will have to deal with any legislation in the context of wider pressures.

It could well be that the model that emerged in the 1990s needs a rethink – for commercial reasons, not through any whim of government.