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New legal rulings for restaurants, cafés and takeaways

There have been a number of developments over recent months that have had a potentially big impact on restaurants, cafés and takeaways, which are summarised below.

PPL overcharging for music licences

In October 2009, the Intellectual Property Office's (IPO) Copyright Tribunal ruled that music licensing organisation Phonographic Performance Ltd (PPL) has been overcharging businesses since 2005 for a licence to play music in public places. PPL increased its tariff by 403% in 2005/06, which prompted the British Hospitality Association (BHA) and the British Beer and Pub Association (BBPA) to complain that the licence fees were too high.

Following the recent ruling, restaurants, pubs, hotels and bars will now be able to begin the process of claiming back overpayments. They will also benefit from a reduction in the cost of buying a licence (<http://snipurl.com/t1xde>), despite PPL's attempts to appeal against the decision.

National Minimum Wage top-ups banned

October 2009 also saw the introduction of legislation relating to the National Minimum Wage (NMW). Following the introduction of the rules on 1 October, it is illegal for employers to make up their workers' wages using tips and service charges. This means that workers must receive the NMW as basic pay and receive any tips on top of this. The Government also set out that firms should offer consumers clear information on what happens to any service charges or gratuities they leave. There is further guidance on the legislation at www.berr.gov.uk/whatwedo/employment/pay/index.html.

Following the announcement, the BHA warned that the measure would significantly increase the wage bills of some restaurants and could cost the hospitality industry around £450 million, rather than the Government's estimated £92 million. It also criticised the Government for introducing the change during the recession when many firms are struggling to survive (www.bha.org.uk/images/downloads/060509_tips_statement.pdf).

Tips and service charge transparency

The BHA has also recommended that restaurant owners should inform their customers exactly how service charges are distributed, after a survey of diners by online reservation firm Livebookings showed that many are put off by the inclusion of a supposedly 'optional' service charge on bills

(www.livebookings.co.uk/News/Diners_Dessert_Restaurants_over_the_Service_Charge).

Miles Quest, spokesperson for the BHA, said that while a service charge is the restaurant's decision, the business should always tell customers how the charge is used. He said: "Imposing a service charge is always a commercial decision on the part of the restaurant. The BHA's approach is that, if a service charge is imposed, then diners should be told how, and how much of it, is distributed, and to whom."

Both the Government and the BHA are hoping a change in the law and a new code of practice will clarify the facts and improve the reputation of the sector into the bargain.

The public debate over tips has arisen in part because of confusion between tips, service charges and discretionary service charges. If a customer gives a cash tip to a waiter, he or she is free to keep it unless the staff operate a voluntary tips pool (known as a "tronc"). But businesses are free to decide whether to keep or share service charges and discretionary service charges with staff.

The new voluntary code of conduct for businesses (<http://snipurl.com/t1xcz>) aims to address consumer confusion surrounding who actually receives tips. The code has been well received and is designed to encourage restaurants to make it clear what happens to service charges and discretionary service charges.

As well as attempting to make the running of tronc systems fairer, the code encourages businesses to clarify their policies for dealing with tips. It recommends that firms provide a written notice on the premises and on a website (if they have one), explaining whether customers' services charges are distributed to staff or are retained by the business.



News in brief:

The following is a round-up of topical business news affecting the restaurant and takeaway sector.

- **New alcohol measure to be introduced**

The Government has proposed the introduction of a new alcohol measure. Science and Innovation Minister Lord Drayson outlined plans to introduce wine measures below 75ml and to allow beer and cider to be served in a glass that is two-thirds of a pint. Other proposals include serving brandy in both 25ml and 35ml quantities. The move was welcomed by the British Beer and Pub Association (BBPA), who said that "a wider choice is better suited to today's lifestyles and tastes".

For more on this story go to:

<http://www.bighospitality.co.uk/default.aspx?page=articles&ID=203912>

For further information on the new measures go to:

http://www.direct.gov.uk/en/NI1/Newsroom/DG_180884

- **Online menus tempt customers into pubs, survey shows**

Online menus could prove to be a valuable marketing tool for pubs and restaurants, according to a recent poll of consumers. A survey carried out by The Mystery Dining Company (TMDC), a mystery shopping service for the hospitality sector, found that 70% of respondents prefer to read or download a menu before they eat out. Furthermore, 90% said they prefer to book a table over the telephone rather than online. A spokesperson for TMDC said that online menus give consumers the opportunity to "gauge the restaurant's style of offering and pricing".

To read more on this story go to:

<http://www.thepublican.com/story.asp?sectioncode=7&storycode=65057&c=1>

- **Activity in service sector soars to two-year high**

Activity in the services sector grew at its fastest pace for nearly two years during August, according to the latest Chartered Institute of Purchasing and Supply (CIPS)/Markit Purchasing Managers' Index. The index stands at 54.1, compared to 53.2 during the previous month. A spokesperson for CIPS said that finance and hospitality sectors are experiencing the highest levels of growth, although the IT and personal services sectors are continuing to struggle.

For more on this story go to:

<http://www.cips.org/aboutcips/news/details.aspx?id=216>

- **Food watchdog develops menu calorie labelling scheme**

The Food Standards Agency (FSA) is in the process of developing a calorie labelling scheme for catering businesses. The scheme will see consumers provided with nutritional and calorie content information of the food available at restaurants, pubs, cafés and fast food chains. Around 21 catering firms have already signed up to the voluntary scheme, including Burger King, Pizza Hut, Pret A Manger, Subway and Sainsbury's Cafés. The watchdog proposes that businesses signed up to the scheme will display calorie information on the majority of food and drink served, as well as print information on menus and on shelving.

To read more on this story go to:

<http://www.food.gov.uk/healthierating/healthycatering/cateringbusiness/calorie>

- **Online restaurant bookings double in a year**

Restaurant bookings made via the Internet have doubled between 2008 and 2009, according to figures from online booking service Livebookings. The website reports that the number of consumers using its service grew by more than 100% between summer 2008 and the same period in 2009. A spokesperson for the firm urged restaurants that offer online booking to collect customers' details to use for future marketing campaigns.

To read more on this story go to:

http://www.livebookings.co.uk/News/Online_restaurant_bookings_more_than_double

- **Recession boosts fish and chip sales**

The economic downturn has prompted more consumers to buy fish and chips, according to research by seafood authority Seafish. Recent figures show that the value of sales of this type of takeaway food has risen by 4.5% between 2008 and 2009. Seafish attributes the rise to consumers being more cost-conscious and the increase in domestic tourists buying fish and chips at seaside resorts. The research also reveals that the weekend is the most popular time for buying fish and chips.

For more on this story go to:

<http://www.seafish.org/whatsnew/detail.asp?id=1912&p=ca>

- **Discount vouchers could affect profits, food businesses warned**

Restaurants and other food businesses that offer discount vouchers are being urged to ensure that promotions increase sales, rather than "cannibalise profit margins". Analysis by business advisory firm Deloitte shows that promotional offers have helped many food businesses to stay afloat during the recession. However, Deloitte warns that firms will have to "wean consumers off these discount deals" as the economy recovers and ensure they build a brand that isn't only recognisable for offering cheap food.

To read more on this story go to:

<http://snipurl.com/sa2ar>

- **Nearly half of pubs see food sales rise during 2009**

Pubs selling food have seen their sales increase during 2009, according to a new report. The Publican Food Report, by 'The Publican' magazine, reveals that 43% of pubs that concentrate on selling food have seen sales rise during 2009 as a result of diverse menus and discount offers. The report also reveals that there has been an increase in the number of pubs providing vegetarian and ethnic food as well as different types of meals, such as breakfast and lunch.

To read more on this story go to:

<http://www.thepublican.com/story.asp?sectioncode=7&storycode=65782>

- **Largest drop in alcohol consumption for 60 years, figures reveal**

Alcohol consumption has fallen at its fastest rate for more than 60 years, according to figures released by the BBPA. The amount of alcohol drunk by the population fell by 8% during the first half of 2009, compared with the same period in 2008. The BBPA said that alcohol consumption "has been on a firm downward trend for several years".

For more on this story go to:

http://www.beerandpub.com/newsList_detail.aspx?newsId=301

- **Restaurant owners optimistic despite tough trading conditions**

Fewer restaurant operators are concerned about the effect of the economy on their business, despite tough trading conditions, according to a recent survey. The UK Restaurant Leader Report 2009, carried out by management consultancy Allegra Strategies, revealed that 60% of respondents said their business performance was worse in the second quarter of 2009 than in the previous year. However, the report also showed that concern about the economy among restaurant operators is decreasing. Furthermore, 64% of those questioned said they believe the casual dining business model will grow the fastest over the next three to five years.

For more on this story go to:

<http://www.essentiallycatering.co.uk/news/Aug09/UK-Restaurant-Leader-Report-2009/>

- **Consumers are increasingly cost-conscious when eating out, report shows**

Consumers are planning to eat out more but are increasingly looking for ways to cut the cost, according to a recent survey of diners. Quickbite, a quarterly survey carried out by research firm Horizons, found that 68% of respondents say they plan to eat out over the next year. However, 54% of consumers said the price of eating out is more important than it was six months ago. Just over 50% said they would be cutting back on alcohol to minimise the cost, while 39% said they would be ordering fewer starters and desserts. The report also revealed consumers' favourite places to eat out, with Chinese restaurants most popular, followed by pubs and then fast food outlets.

For more on this story go to:

<http://www.horizonsforsuccess.com/index.php/news/canny-diners-find-ways-to-eat-out-for-less/>

- **Council considers obesity tax for fast food businesses**

A council in Essex is considering introducing a tax on fast food outlets to try and tackle the growing obesity problem in the area. Barking and Dagenham Council has published draft plans to charge hot food takeaways a levy of £1,000, which would then be used to tackle childhood obesity in the borough. The consultation document also proposes licensing restrictions that prohibit fast food vendors from stopping within 400 metres of schools. It states that takeaways "currently dominate" food on offer in the borough, which "has a damaging effect on health".

To read the full document go to:

www.barking-dagenham.gov.uk/8-leisure-envir/planning/local-dev-framework/pdf/spd-saturation-point.pdf

- **Pubs given go-ahead to confiscate fake ID**

Pub managers and licensees have been given the go-ahead to confiscate fake IDs that are used on their premises. David Hanson, Minister for Crime and Policing, made a statement on the issue after a pub manager in Essex asked for clarification. Mr Hanson said: "It is the Government's view that door staff are not committing a criminal offence by confiscating the ID as they lack the dishonest intent necessary to commit the offence of theft." He advised that any confiscated ID should be handed to the police.

To read more on this story go to:

<http://www.thepublican.com/story.asp?sectioncode=7&storycode=65510&c=1>

- **HMRC extends VAT reversion deadline for some firms**

HM Revenue & Customs (HMRC) has announced an extension to the VAT reversion deadline at the end of the year for certain businesses, such as pubs, clubs, restaurants and hotels, and mobile phone operators. It says that these businesses will be able to charge the 15% VAT rate until 6am on New Year's Day, rather than midnight on New Year's Eve as was previously required. The extension is limited to those businesses that are open at midnight on 31 December 2009 and account for VAT at the point of sale.

For more on this story go to:

<http://www.accountancyage.com/accountancyage/news/2252631/hmrc-freezes-vat-retailers>

- **At least a third of Scottish pubs waiting for licence**

The Scottish Beer and Pub Association (SBPA) has expressed concern that up to 40% of premises licences have not been issued to retailers of alcohol, despite the deadline being extended from 1 September 2009 to 1 November 2009. The premises licences have been introduced under the Licensing (Scotland) Act 2005. The SBPA told 'The Publican' magazine that it is "increasingly concerned" and blames licensing boards for "failing to administer the process effectively".

To read more on this story go to:

<http://www.thepublican.com/story.asp?sectioncode=7&storycode=65585&c=1>

To read more on the Licensing (Scotland) Act 2005 go to:

<http://www.infoscotland.com/licensingact/>



Useful resources and contacts

The following is a round-up of essential sector resources and contacts for the restaurant and takeaway sector.

The **Food Standards Agency (FSA)** is an independent Government department that works to protect public health and consumer interests in relation to food.

Website: www.food.gov.uk

The FSA has a useful publication entitled '**Food Hygiene: A Guide for Businesses**'.

Website:

www.food.gov.uk/multimedia/pdfs/hygienebusinessguide.pdf

The **Health and Safety Executive (HSE)** is responsible for health and safety regulation in Britain. The HSE produces a wide range of information and guidance on health and safety best practice. It offers specialist guidance for small businesses, as well as specific support for businesses in the catering and hospitality industry.

Website: www.hse.gov.uk/catering/index.htm

The **Chartered Institute of Environmental Health (CIEH)** is a professional body that offers food safety and hygiene training.

Website: www.cieh.org

The **British Hospitality Association (BHA)** is the national trade association for hotels, restaurants and caterers, and represents the views of the industry to the UK Government and in Europe.

Website: www.bha.org.uk

The **Institute of Hospitality** is a trade body for managers who work in the hospitality industry. It publishes sectoral news, holds a range of events, and offers members access to its publications.

Website: www.instituteofhospitality.org

The **Pizza, Pasta and Italian Food Organisation** is the trade association for pizza, pasta and Italian food businesses. It offers a range of member benefits including a regular magazine and free access to a legal helpline.

Website: www.papa.org.uk

People 1st is the Sector Skills Council for the hospitality, leisure, travel and tourism industries.

Website: www.people1st.co.uk

Caterer Search is the online portal for 'Caterer and Hotelkeeper' magazine. It has frequent news updates and information on developments from across the restaurant, takeaway, café and hotel sectors.

Website: www.caterersearch.com

Big Hospitality is the website for 'Restaurant' magazine and covers mainly the restaurant trade. It features news and articles on the industry and products, as well as a forum where members can network.

Website: www.bighospitality.co.uk

Fast Food Industry is a website providing news, details of franchises and a directory of suppliers.

Website: www.fastfoodindustry.co.uk

Just Food is a website with reports, news and event information from all sectors of the food industry.

Website: www.just-food.com

'**Restaurant**' magazine features news, interviews, information on ingredients and suppliers and advice on equipment.

Website: www.william-reed.co.uk/default.aspx?page=products&ID=36

'**Morning Advertiser**' is a magazine for the pub trade, featuring industry news, developments and a forum for members to network and discuss current issues.

Website: www.morningadvertiser.co.uk

'**Essentially Catering**' is a magazine that is distributed to pubs, cafés, restaurants, fish and chip shops and fast food outlets. It features industry and business news, profiles of caterers, licensing issues, marketing tips and advice on health and safety.

Website: www.essentiallycatering.co.uk

'**Café Magazine**' is an online magazine featuring industry news and reviews.

Website: www.cafemagazine.co.uk

Safe and Local Supplier Approval (SALSA) helps local food producers supply national and regional buyers.

Website: www.salsafood.co.uk

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