

7. FURTHER CONSIDERATION OF COUNCIL AMENDMENTS

**7.1. Communications Bill 2018 –
Council amendments considered**

Mr Cregeen to move.

The Speaker: Now we turn to Item 7, further consideration of Council amendments to the Communications Bill 2018 – Mr Cregeen to move.

Mr Cregeen: Thank you again, Mr Speaker.

Mr Speaker, Hon. Members, prior to the Bill returning to Legislative Council just before the summer recess, the Commission completed the promised consultation on the scope and structure.

To summarise that consultation, the Commission reviewed the various models and proposed that the Commission be chaired by a person who is independent of both the industry and politics, but still retain a political Member on the board to ensure that there is the opportunity for public scrutiny of the Commission's work and to ensure that the public interest is retained during discussions and decisions.

The responses received were broadly supportive of this position. However, the Council of Ministers has taken this a step further in its amendment to the Bill by removing that Member's voting privileges to ensure that there can be no hint of political interference.

The compromise accepted by Council is that instead of the Minister of Home Affairs being *ex-officio* Chair of the Commission, the Chair and all other members bar one should be apolitical. A Member of Tynwald would be a member of the Commission, albeit without a vote but with a voice at Commission meetings. That Member, it is envisaged, could be there to move motions and answer Questions in Tynwald in relation to the Commission's work but otherwise play a supportive role in relation to it.

Hon. Members will be aware that since I was appointed as Minister for Home Affairs, one of my priorities has been to move this Bill forward. The COVID-19 situation has shown us first-hand how deeply ingrained telecoms are in our daily lives and businesses, and how now more than ever connectivity is a key consideration in people's lives.

Hon. Members will also have heard at the presentation last week by the Chief Executive Officer of the Commission that the Commission is moving forward on awarding key spectrum to the Island. The next steps in the award are largely dependent on this Bill progressing.

This spectrum award is key to ensuring the Island keeps pace with other jurisdictions in terms of telecommunications infrastructure, as well as allowing the community greater connectivity, but will also future-proof provisions for some years to come.

The Bill also provides the opportunity to update the licensing of telecoms services on the Island, which in turn will provide the regulatory certainty needed to encourage investment in our Island's telecoms infrastructure.

Industry has been patiently waiting for the Bill to move forward, but we are now at the point that the legislative process needs to be concluded to allow the industry to progress with their investment plans. This legislation will give the Commission the teeth to enforce licence conditions by way of penalties and fines, allowing it to better protect the Manx consumer and ensure competition in this vital sector of our economy.

Government is currently making a significant investment in ensuring all Manx people have access to high-quality internet connectivity, through the National Broadband Plan. It is important to ensure that we have a strong and well-equipped regulator to ensure that this investment is protected and that it has the intended effect to ensure that competition in our telecoms sector continues to flourish to the benefit of all.

I would like to thank our colleagues in Legislative Council for their support in accepting this compromise solution and would commend it to Hon. Members.

Mr Speaker, I beg to move the motion standing in my name.

The Speaker: I call the Hon. Member for Ayre and Michael, Mr Baker.

Mr Baker: Thank you, Mr Speaker. I beg to second.

The Speaker: Mr Shimmins.

Mr Shimmins: Thank you very much, Mr Speaker.

Well, what a carry-on this has been, Hon. Members! (**A Member:** Hear, hear.) If you look back at *Hansard*, this started in February 2019, and I think we all recognised at time that this was a very important Bill. We have just heard how important the communications infrastructure is to our Island. It has been delayed due to a bit of political status, really, in my view.

This Bill has been misrepresented a number of times as being a spat between the House of Keys and the Legislative Council. It has not been that. We all know it has not been that. If you look at the voting patterns in the House of Keys, it has previously been rejected or defeated 13:10, with the Council of Ministers and fellow Members of the House of Keys objecting to initially an amendment from my hon. friend, Mrs Caine, who sought to remove the political Chair. It then came back in November 2019 from the Legislative Council, and it was rejected again, 13:10 here, with the Council of Ministers and a few others, but if you look at the total number of backbenchers who have objected to a political Chair, including Legislative Council, there is a clear majority of Tynwald Members who are not in favour of a political Chair.

I guess what is staggering is that this has gone on for so long, and it has held up such an important piece of legislation, so I welcome the fact that we do seem to be nearing the end of this carry-on. I understand that a compromise has been brokered. I do wonder if it was all worth the delay and the amount of time that has gone into this consultation. There was a clear message from the outside world, outside of this House, that actually we do not need a political Chair, it is inappropriate in 2020.

I have a few questions for the Minister, so first of all, will he be the political Member or will that be another Member for Home Affairs sitting on the board, in terms of the non-voting Member? I guess the whole crux of this is well, we do not have a political Member on the Gambling Supervision Commission; we do not have a political Member on the Financial Services Authority. Really? What a carry-on! Are we now going to get political Members on those bodies, if we think that this is so important in this body? They are also very important parts of the Island's infrastructure. So I look forward to the Minister's comments.

Just for the record, I will be voting against, because I object to the fact that we have political Members on regulators. Personally, I think that is wrong in this day and age, but we do need to sort this out once and for all.

Thank you.

The Speaker: Mrs Caine.

Mrs Caine: Thank you, Mr Speaker.

I am afraid I am going to echo some of my hon. friend for Middle's comments here.

I am pleased that the Bill has finally returned to this Hon. House, and I completely support the appointment of an independent Chair of the Communications Commission – not surprisingly, seeing that it was my amendment that failed to get support in March 2019. I remember it well, it was my birthday. It was not a very good birthday, I think. (*Laughter*)

I am less convinced of the necessity for a politician to retain a seat at the board meetings – in fact, membership of the Communication Commission. Why do we need to retain a political link to this regulator?

Also, it is very unfortunate that we are here, 18 months down the line. This legislation could be in force now, and it is the Council of Ministers, I think – I agree with Mr Shimmins – that forced this delay. This is not a backbench issue. This was not Members. This is a sensible move that says, we should not have political membership of a regulator, so why is it so important to retain that on this one?

I do note that it would require Tynwald approval. It does not specify that it would be a Minister, so is that person not completely pointless to be on the regulator? That would be my thought. I think what is the point? Why can the ties not be cut completely, and when are we going to allow all regulators on the Isle of Man to operate effectively and have that separation from Government or any perceived political influence?

The Minister said, I think, that taking away the voting rights and having this political person would reassure us that there was no hint of political interference, but still there is going to be a suggestion of political *influence*, and why is that necessary?

Overall I am really pleased to see this legislation before us. It is very much wanted by this industry, and for that reason I will reluctantly support it, but I think the sooner politicians get out of any suggestion that they are on the regulatory side, the better.

Thank you, Mr Speaker.

Mr Shimmins: Hear, hear.

The Speaker: Hon. Member, Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

I am not going to reiterate the points that have already been made. I am not going to vote for this. It is absolutely pointless. The arguments that have been put forward: I have not heard a good argument as to why the regulator needs a politician when our other significant regulators function perfectly well, and I would argue better, for the fact they do not have a politician sitting on the board.

The arguments that have been put forward that somehow by removing the politicians' vote, they will not be able to influence anything – I have never heard a more ridiculous suggestion in my life! It is almost as if people are not familiar with this concept of soft power. I sit in this Hon. House. I have no actual power over most Government Departments and yet somehow I have managed to get the things that I want them to do. I cannot force Government to do things for me. I cannot vote inside Government Department meetings, and yet somehow policy happens.

Actually, this idea that removing a person's vote is exactly the same as removing their ability to interfere or influence, that is a paper thin argument that belies the reality of what will be happening with a politician being retained on the board.

So I cannot support this amendment, Mr Speaker. I appreciate where it has come from and the urgency to get this through, but, quite frankly, this is not an acceptable compromise.

The Speaker: Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.

Mine are just one simple question and one observation. The question is: what is the role of this political Member? Is the role to be a spy? (*Laughter*) Or is it to speak for the Council of Ministers surreptitiously? Obviously clause 9 restricts directions from the Council of Ministers, but perhaps you could do it through having a political voice on the board. So that is the question: what is the role of this person?

The second point is that I was actually a bit surprised that the Minister, when moving, talked about scrutiny as the role, because I thought there were so many other ways that we could exercise scrutiny. We could have the Policy Review Committees – the FSA, for instance, comes in annually to talk to the Policy Review Committees. We could have a debate annually on the annual report of the Communications just like we have agreed would be a good idea for the Manx Care that we could have, that I have proposed, often, for the FSA and other regulators. So that is my observation.

The Speaker: I call Mr Cregeen to reply.

Mr Cregeen: Thank you, Mr Speaker.

I know people have got their views that they have carried on for a number of years in this Hon. House. In one way, it is not worth trying to convince you otherwise – you have already announced that you are going to either vote against or reluctantly support it.

But this is something that we need to bring forward. This is something that the industry needs. Hon. Members, if this is not passed through, then we will be in another situation where the Bill is still hanging round, we cannot move anything forward. As I have said, Mr Speaker, this will be an appointment by Tynwald. So the appointment will come from Tynwald.

We have to be really careful there that it is not something that is taken over by the industry or the politics side of it.

So, Mr Speaker, I beg to move.

The Speaker: The motion is that the Keys concur with the Council on the amendments as set out on the Order Paper. Those in favour, please say aye; against, no. The ayes have it.

A division was called for and electronic voting resulted as follows:

FOR

Mr Ashford
Dr Allinson
Mr Baker
Mrs Barber
Mr Boot
Mrs Caine
Mr Callister
Mr Cannan
Mrs Corlett
Mr Cregeen
Mr Harmer
Mr Perkins
Mr Quayle
Mr Skelly
Mr Speaker

AGAINST

Mr Moorhouse
Mrs Christian
Mr Hooper
Mr Peake
Mr Robertshaw
Mr Shimmins
Mr Thomas

The Speaker: With 15 for, 7 against, the ayes have it. The ayes have it.
Hon. Members, that brings us to the conclusion of a very busy Order Paper. I thank you all for your consideration and the good humour with which you have dealt with it all.

The House stands adjourned until 10 o'clock on 3rd November in our own Chamber.

The House adjourned at 5.03 p.m.