

**Competition Bill 2020 –
Third Reading approved**

Mr Perkins to move:

That the Competition Bill 2020 to be read a third time.

The Speaker: I call on Mr Perkins to move Third Reading.

Mr Perkins: Thank you, Mr Speaker, and thank you Hon. Members.

As Hon. Members may recall, this Bill was introduced to this House in November of last year. I appreciate it has taken some time to get to this stage, but it is important to get the detail of legislation correct.

I am most grateful to the Hon. Members for their consideration of the Bill and their further input on this matter since that time, both in this House and in meetings with me and my officers. Their input, and that received from representatives of the Island's business community, have resulted in the amendments that have improved the Bill's drafting, particularly with respect to those provisions relating to mergers.

I am also thankful for the support of Minister Boot in seconding the Bill and the assistance of Mr Callister in moving a number of amendments to improve the drafting of the Bill. With these revisions the Bill is an improvement to the Island's competition legislation and enables us to demonstrate we meet the necessary standards for international trade.

Mr Speaker, I beg to move that the Bill now be read for a third time.

The Speaker: Thank you.

Mr Boot.

Mr Boot: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

The Speaker: Thank you very much.

Mr Thomas.

Mr Thomas: Thank you, Mr Speaker, and congratulations to the Chair of the Office of Fair Trading for taking this Bill through the House of Keys during the last few months. I will come to that in a moment.

The first point is I also wanted to note and express my appreciation for the commitment of the Office of Fair Trading to review the Fair Trading Act Exclusion Orders that were made by Council of Ministers, without an input from the Office of Fair Trading, using the Competition Act procedures, because I am sure it will end up as a Competition Act.

The second point is, I just wanted to get confirmation at the Third Reading stage that the Chair remembers that when prescribing the financial thresholds, or other economic criteria, it will only be *local* parties that are considered; and also that the Chair has made an absolute commitment to seek public consultation and public engagement in respect of those criteria and the definitions, because this is particularly important.

I also wanted to welcome earlier on in the clauses stage, about two months ago, and to remind the Chair that 'public authority' was left wrongly defined in clause 3, given what happened subsequently with clauses 7, 8 and 9. So therefore Government needs to amend, or rely on Legislative Council doing it of their own will – to change the definition of 'public authority' in clause 3, otherwise there is a contradiction inside this piece of legislation.

I also wanted to remind the Chair of the commitments that he had made to Mr Shimmins and myself in respect of clause 23 and clause 26; and also I just wanted to remind him that the much-

celebrated local advocates had actually already made suggestions that would work for clause 23 and 26. I hope the Chair, the Office of Fair Trading Board, DEFA and all those other people who are involved will look seriously again at clauses 23 and 26 in the light of what has been proposed to them during the consideration of clauses.

Just finally to make some general points. The first one is that I really welcome the Chief Minister's intervention this evening, which basically mirrors what I stated when I was seconding the European Union-UK Trade and Cooperation Agreement remarks about the Competition Bill. I just wanted us to put another emphasis on this, which is: when we ask the UK and, beyond them, foreign parties to take us seriously in trade negotiations we have also got to establish that we have an independent, competent and empowered regulator; and also a parliamentary system that is working to make sure we have proper law.

It is not just a question of thinking that we have the same legislation. Often when the Isle of Man has come under criticism internationally it has not been about what is in the law, it has been about the implementation of the law. I can think of examples over the last three decades where that has been the case, and I hope that everybody involved will remember that the fact is what *matters*, not what the law says. So therefore we need to make sure that the UK and their trading partners, who we hope can become our trading partners, accept that we have proper practice behind this as well as proper law.

The next general point I wanted to make, and I think Mr Perkins, the Chair of the Office of Fair Trading seems in a really good mood this evening, so I hope he might reflect back on what he said on 23rd February, when he actually said:

Quite honestly, I do not believe my ears. At the last sitting of the Keys, I put it back for two weeks on the basis that we got the first clauses under way and the contentious clauses had an extra two weeks in which to have amendments put forward and further input from various Members. And here we are today arguing about [*whether*] we need extra time.

Quite honestly, Hon. Members, this has been going on since last November.

So I hope that the Chair, given the mood he is in, and the politeness and the respect that he has shown to all Members this evening, can say he has actually welcomed – and the OFT Board and the OFT management has welcomed – the extra participation by Members during the last six weeks; and beyond those Members, to the experts outside this place who have helped us in making this Bill of international standard and aligned with the UK and the EU and other future trading partners.

Finally, the last general point I would like to make is: will the Chair join with me in calling for the Council of Ministers to bring through the Regulatory Review report at the sitting of Tynwald in April, so that we can finally have a debate on the floor of Tynwald in the light of the commitments that were made during 2019 around the RTLC and around economic regulation? When I tried to get leave to introduce an Economic Regulation Bill, around what happened in terms of gas regulation and a new concept of economic regulation being managed by the Communications and Utilities Regulatory Authority, and how that links in with competition.

So I think everybody associated with the Office of Fair Trading can actually begin to take credit for understanding the difficulty of what they have been trying to do for nearly a decade now – perhaps you could even argue for 25 years, since the report was presented to the Council of Ministers in 1996, when the Fair Trading Act was going through – that we needed monopolies and mergers and natural monopolies regulation as soon as possible. They have finally made some progress.

I hope that the Chair of the Office of Fair Trading would join with me calling on Council of Ministers to actually put this into the public space, into Tynwald for debate as early as April, so that we can get to the bottom of this before the election and not leave it hanging over as being a major political issue through the election.

Thank you, Mr Speaker.

The Speaker: Mr Robertshaw.

Mr Robertshaw, you have the floor.

Mr Robertshaw: Sorry, Mr Speaker, my apologies, I was a bit slow there.

Just to follow up on Mr Thomas's comments, I think it is clear that there are significant issues around the OFT's independence. In light of the significant powers now invested in the OFT as a consequence of this Bill, with the OFT acting as a regulator in the future, I think it is *incredibly* important that before an Appointed Day Order is delivered on these powers that the next House – I presume it will be – seriously addresses these issues of independence and competency to make sure there is fair and proper delivery of these powers that are now invested in the OFT.

That is my final comment, Mr Speaker. Thank you.

The Speaker: I call on the mover to reply. Mr Perkins.

Mr Perkins: Thank you, Mr Speaker.

I am happy to confirm to Mr Thomas the initial undertaking of the things he asked for. Yes, I can go along with that.

I do take his point on the three- or four-week delay to get extra clarity from various bodies that input information to us and requested various changes. It is so important that we are competitive as an Island, and I think it has just done that.

Yes, I am in a good mood and my ears are open at all times, I have had them cleared out. But regarding his request to Council, I think I do have to draw the line there, because it is up to the Council to decide their priorities regarding what they deal with next. I do agree that it would be a good idea, but I would leave that to Council and Mr Thomas to lobby them to go ahead with that.

Mr Robertshaw, yes, I understand where he is coming from and the Appointed Day Order. I would agree with that, that things should be looked at before the Appointed Day Order is brought into being.

With that, Mr Speaker, I beg to move the Competition Bill be read for a third time.

The Speaker: Thank you.

I put the question that the Competition Bill 2020 be read for a third time. I presume that motion is carried unless any Member indicates dissent, which they should do now. No dissent having been indicated, that motion therefore carries.