

## Order of the Day

### 1. Communications Bill 2018 – Third Reading approved as amended; Bill passed

HM Attorney General to move:

*That the Communications Bill 2018 be read a third time and do pass.*

**The President:** Hon. Members, Item 1 on our Order Paper is the Communications Bill for Third Reading. I understand Hon. Member, Miss August-Hanson, has some amendments to be moved at the Third Reading stage and I call on her to move them. *(Interjection by the Clerk)*

I beg your pardon. Yes, Mr Attorney.

**The Attorney General:** Yes, thank you, Mr President.

Before I move the Third Reading I would like to address some matters that were raised at the last sitting.

Mrs Lord-Brennan raised a query in relation to clause 112 of the Bill which addresses interference with public electronic communications network or service. Mrs Lord-Brennan asked whether interception of a message was caught by this legislation. I understand the question to be that if a message was to be intercepted but not modified or interfered with, would that be an offence under this Bill?

As I mentioned at the time, this is covered in separate legislation, the Interception of Communications Act 1988, which states:

... a person who intentionally intercepts a communication in the course of its transmission by post or by means of a [public] courier service or public telecommunication system shall be guilty of an offence ...

I can confirm that as interception itself is dealt with elsewhere, clause 112 is solely concerned with intentional modification or interference with that message and I trust that this clarifies the matter.

Mrs Poole-Wilson asked for more detail around the specification of periods for making representations. There are a number of instances in the Bill where the commission is required to specify a period in which a person may make a representation in response to an action or proposed action of the Commission. The Bill's provisions vary as to whether or not that time period for representation is specified in the Bill.

In relation to instances where a time period is not prescribed the short answer is that it would depend entirely on the prevailing circumstances. For example, there are instances where prompt action may be required in the interests of stakeholders, in which case a relatively short representation response time would be acceptable. On the other hand, there are other instances where an action may require a longer response period due to its complexity or scope. The Bill does not prescribe time periods in all instances as it is important that the Commission has the discretion to address each case on its merits. The Commission must at all times specify a time period for representations when issuing a notice in a specific matter. That time period must be fair, reasonable and non-discriminatory.

There were some other queries from Mrs Lord-Brennan and Mrs Poole-Wilson around the funding and governance of the public service broadcaster and whether consideration had been given for addressing these issues further in this Bill.

As I have mentioned, the Bill primarily establishes a regulatory regime for the Commission. However, some provisions in the Bill address the recommendations made by the Tynwald Select Committee in March 2014. The Commission's primary role is to act as a content regulator for the

broadcasters. It is generally accepted that it would be inappropriate for the Commission to be involved in determining what state funding would apply to a licence. It should not be the place of the Commission as an independent regulatory authority to make or contribute to determinations on Government policy as to how public funds are used.

The question of funding of the public service broadcaster is entirely one for Treasury with Tynwald approval. This reflects recommendation 4 in the 2014 Tynwald Select Committee that:

... any future public service broadcasting funding should be subject to periodical reviews based on reports to Tynwald and with Tynwald's consent.

Mrs Lord-Brennan asked whether there had been any consideration of a minimum period for the public service broadcasting licence. There was no consideration of a minimum licence duration, only of a maximum. The issue was not raised by any respondents by the consultation. The current licence was issued in 2015 for a period of 10 years. The next licence issued under this Bill may be for a further period of up to 10 years, as may subsequent licences. This allows for flexibility in an area which, as outlined by Council Members already, may change quite significantly in the coming years.

Finally, I would like to extend my thanks to Members. While there has been robust debate on a number of issues, the Commission's main concern is that this Bill and the important provisions it contains in the telecom space is one step closer to being enacted. I wish to record my thanks to Miss August-Hanson in particular for her interest in the Bill and to the Hon. Mr Henderson for subsequently acting as seconder.

I would now like to formally move the Third Reading of the Communications Bill 2018.

**The President:** Miss August-Hanson.

**Miss August-Hanson:** Thank you, Mr President.

There are a number of amendments now moving into Third Reading –

**The President:** Mr Henderson to second.

Yes, to formally second. I beg your pardon.

**Mr Henderson:** Yes, I beg to second.

**The President:** Miss August-Hanson.

**Miss August-Hanson:** Yes, thank you.

I know that these came through a little late in the day so I would like to apologise to Council Members for that. It was a bit unavoidable in terms of the resource in the Attorney General's Chambers, so yes, that is why that came through a little bit later in the day.

Basically we have amendments to clause 8, clause 36, clause 74 and clause 89, and those are due to amendments that were made to clause 152 by Mrs Kerry Sharpe MLC in the clauses stage of the Bill. I am more than happy if Members wish me to take them through those line by line and exactly what they might need, if necessary.

The amendment to clause 81 is essentially just something that I picked up in the clauses stage of the Bill with the drafter and we both agreed that it needed amending just so that the clause makes sense.

So I would just like to move each of the amendments in turn.

Thank you, Mr President.

*Amendment to clause 8*

1. *Page 29, omit from the beginning of line 27 to 'appropriate,' in line 28.*

*Amendment to clause 36*

2. Page 45, omit from the beginning of line 11 to 'appropriate,' in line 12.

*Amendment to clause 74*

3. Page 61, omit lines 34 to 36 (which constitute subsection (5) of the Clause).  
Renumber the following subsections and adjust cross-references accordingly.

*Amendment to clause 81*

4. Page 67, line 8 at the beginning insert 'confirming'.

*Amendment to clause 89*

5. Page 75, omit from the beginning of line 1 to 'appropriate,' in line 2.

**The President:** Does anyone else wish to speak?

Do we have a seconder for the amendments?

**Mrs Sharpe:** Mr President, I beg to second.

**The President:** Mrs Sharpe.

In that case, Mr Attorney.

**The Attorney General:** If I can say very briefly, Mr President, that I am, and the Commission are, content with the proposed amendments.

**The President:** In that case we will move to a vote. I will put the amendments in their entirety as moved and seconded. Those in favour of the amendments, say aye; against, no. The ayes have it. The ayes have it.

The Third Reading then of the Communications Bill as amended. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Thank you, Hon. Members.