

5. BILLS FOR THIRD READING

5.1 Consumer Protection (Amendment) Bill 2015 – Third Reading approved

Mr Quirk to move:

That the Consumer Protection (Amendment) Bill 2015 be read a third time.

The Speaker: We turn to Bills for Third Reading: Consumer Protection (Amendment) Bill.
I call on the mover, the Hon. Member for Onchan, Mr Quirk.

Mr Quirk: Thank you, Mr Speaker.

In moving the Third Reading of the Bill I will be brief in light of the fact that the Bill passed smoothly through its clauses last week.

I wish to thank Hon. Members of this House for their support given to the Bill during the Second Reading and the clauses stages. Particularly, I would like to thank the Hon. Member for Onchan, Mr Hall, and Mr Singer from Ramsey for raising issues regarding the Bill and I hope we have now clarified those issues.

If I may summarise the key points of the Bill, they are introduced to ban cold calling and update the current Consumer Protection Act 1991. There are three types of cold calling which we intend to ban. They are doorstep cold calling; telephone cold calling and the excursion-based cold calling. The Bill will make it illegal for traders to enter into contracts using these types of sales methods.

At the clauses stage, Mr Karran raised with me the potential of making the telephone companies responsible for stopping telephone cold calling. I promised that I would raise the matter with the Communications Commission, which we did. The issue around telephone cold calling originating within the UK and the EU are being addressed by the UK Information Commissioner.

What we are left with is a bigger problem of the foreign telephone cold calling. The cold calling factories use technology to disguise the origin of the call. It is important to implicate and identify which are genuine telephone calls and which are cold calls: an attractive idea which may sound simple but is not practical.

The second policy aim is to enable the OFT to respond more quickly to emerging issues in relation to consumer protection. The OFT recognises there is a need to keep the law on consumer protection up to date. It also recognises the key elements of the protection fix in the 1991 Act; doing so would require a regular stream of Bills. What this Bill seeks to do is to allow the OFT to amend the 1991 Act by order that correspond with equivalent UK legislation.

It also allows the OFT to apply subordinate legislation to the Island with modifications. This effectively is scrutinised because the orders would require a positive approval of Tynwald.

In the event that the Bill receives Royal Assent, it is anticipated the Bill will be brought into operation as soon as practical.

Finally, I would like to thank my seconder, the Middle Member, Mr Quayle, for his support over this time. I had a discussion some time ago with the Member for Middle, before he became a Minister, and I am grateful for it. I wish to put on record, too, his support – although he is a Minister now. *(Laughter)*

Mr Watterson: Do not hold that against him.

Mr Quirk: I beg to move that the Consumer Protection Bill 2015 be read for a third time.

The Speaker: Mr Quayle.

Mr Quayle: I am not sure I want to second it now! *(Laughter)*
Joking apart, Mr Speaker, I beg to second and reserve my remarks.

The Speaker: Hon. Member, Mr Karran.

Mr Karran: Eaghtryrane, I feel it is a shame. The fact is, what I would be interested to know is what is the enforcement as far as the debt from outside the Isle of Man is concerned, as far as cold calling is concerned?

Also, what structures are in place to stop somebody who has been cold called and has a debt on them, from being on a debt register in the other jurisdiction? What powers has the Office of Fair Trading got as far as that is concerned?

Today, Vainstyr Loayreyder, yes we have managed to – take the old saying – ‘take defeat out of the jaws of victory’ as far this issue is concerned. We could have really made this Bill a real opportunity to protect vulnerable people by given them the enabling legislation to bring in a register as far as operatives, particularly in the construction industry, in order to protect the elderly and the vulnerable from these people. My great fear is that we will have, once again, the legislation and we will have none of the protection in actually bringing about what the Bill really wants to do.

I think the situation is that what we have here is we will have the legislative ability and the power, but when we look at the reality of it being policed, I very much doubt it will be policed to any real level apart from in the most extreme cases, as far as when this Bill becomes law from the floor of this House.

Hon. Members, we have affected cold calling in the Isle of Man, but I think you will find that when it comes to the problems like my elderly mother finds, where she keeps on having somebody using my late dad’s middle name as their surname, it will still be a problem as far as this House is concerned.

Sadly, this will be better than nothing, but we could have taken that opportunity to make this really effective and a real day for the red lights, to stop this sort of abuse by giving them the power to do that job, as far as the Office of Fair Trading is concerned. We will just have to add this to the missed opportunities, like so many other things that we have. We have something in the region of £400,000 paid out on an Office of Fair Trading that is *very* little use apart from its debt counselling services.

The Speaker: Hon. Member, Mr Malarkey.

Mr Malarkey: Thank you, Mr Speaker.

Obviously in supporting the Bill – and I understand where the Member moving it is coming from. Certainly for cold calling on doorsteps and some of the incidents that have come to our attention lately: people calling to do roof work, etc.; ripping people off; not paying tax and all cash things. Hopefully this will stop a lot of this. I fully support the Bill.

Following on from Mr Karran’s comments about cold calling from telephones, I am interested to hear that the UK and Europe is looking into cold calling. Certainly my experience lately is of phone calls that are coming in and missed calls. I am hearing that when you return the call, they are charging something like £15, £20, £30 per minute on the call going back.

I would ask the Chair of Communications if he could look, when the new legislation comes in, is there some way that we can stop our local providers like Sure and Manx Telecom from paying that money to these people, to safeguard the people in the Isle of Man? Because they come through on a mobile phone as a missed number and many, many people will think, ‘Oh, somebody is ringing me and it is long distance. It might be important.’ Then they find they are ringing back and then they are getting a bill for an extreme lot of money, because it is absolutely, total peak, going back on their mobile phones.

I am sure this is outside the powers of OFT at the moment, but certainly it is something I would like OFT to work with Communications with and find out how we can protect, because this is now becoming very common practice. I think we really do need to find a way forward, Mr Speaker, of protecting our citizens from this rather dubious way – especially when they are hiding the phone numbers. Some of these might be coming in from India and they will come through. I have had experience myself where one has come through and your own bank number has come up on the actual mobile phone. It started off somewhere in India and they have managed to get it through and make it look as if the call is coming from your own area.

This is happening more and more and it is something we should be safeguarding. I think it is something OFT should be looking into and working with the right authorities to stop this, Mr Speaker.

The Speaker: The Hon. Member for Rushen, Mr Watterson.

Mr Watterson: Thank you, Mr Speaker.

Just to build on the comments of the previous speaker, of course we are not in the simple age that we once were where one exchange puts it through to the next exchange until it ends up at the end user. All too often now we see things such as Voice Over Internet Protocol: using internet routers to get the signal through to the final telephone. Technology is becoming more sophisticated and that presents a real problem. We do not think it is entirely possible that it is reasonable for Manx Telecom or Sure or whoever the provider is to be able to identify where the originator of the call is. We are not entirely convinced that is possible now.

At the consumer end, I am aware that there is technology out there that will filter out numbers where the origin is not known, but the trouble is that accounts for withheld numbers as well as unknown numbers. Whilst that might suit us in terms of not answering telephone calls from the tax man, it also means that most of Government services, when trying to phone you, would be blocked if you use that technology.

This is an evolving statement. Certainly we would be happy to work with the Office of Fair Trading to see if something can be done, but this is rather more about whether it is technically possible rather than what the law allows.

The Speaker: Hon. Member, Mr Quayle.

Mr Quayle: Thank you, Mr Speaker.

I rise obviously in support for this Bill. I think there are a couple of things worth mentioning. Whilst we do live on this gem of God's earth, with a population of 85,000, we are never going to be able to affect the off-Island calls without a full international effort to stamp this out. But I think what we can do – and I hope the Office of Fair Trading will take on board – is that we can do more public awareness of the scams that are out there; if we can try and raise our game in getting that message to the public.

I first worked on this as a backbencher when I came across an elderly widow who had been ripped off by a local builder whose operation was: he would see planning applications and then he would contact the person and say, 'I have just had a cancellation done and I can do your work tomorrow.' That was his scam. So he was cold calling. Now, we have managed to stop this, but if that same builder then writes a letter to the person offering this service, then that has not stopped him, because it means that you then have to go back to the person. If you go back to the person, then you do not have any protection under this legislation.

Whilst I think we have gone as far as possible, without international efforts on the telephone calls – the international ones which the Hon. Member for Onchan has raised – I think we can do our utmost as a Government to raise the awareness with the people of the Isle of Man of what the scams are, because they trend from time to time, I think.

I would hope the OFT would take those comments on board, Mr Speaker.

The Speaker: Hon. mover to reply, Mr Quirk.

Mr Quirk: Thank you, Mr Speaker.

Mr Speaker, just about my hon. colleague from Onchan there, I am really disappointed in his attitude towards this. He does not see, as far as I can see, the merits of the actual Bill. Can I say to Hon. Members in this House, last week when we were discussing the clauses stage, another individual was taken for – I will probably use the right wording – ‘a ride’ for a couple of grand. That is the issue we have got on the Island. These individuals go round and we need to stop it. This Bill will be effective.

I will give that assurance that the Office of Fair Trading will discuss those with the Communications Commission. We do rely on the UK Information Commissioner and he has, if you look at the information that is out there, threatened large companies in the United Kingdom with large fines. So they will be aware of that.

As Members did say, there is a concern about calls originating from off-Island, from international places. We need to put into being some PR – and this is where Members can come in as well, when we are talking to people out there – to make sure that if a job is to be done on the Island ... If somebody cold calls at your door, the answer is ‘no’. Send them away. If you want a job done, ask about, ask who the builders are. Have they done a job before? Are they legitimate? Did they have a proper place to work from? All those are simple things we can actually do to our community.

Bringing this Bill in will give the strength to the community to turn round to these people and say, ‘No.’ It will become an offence in the Isle of Man if anything is to be enforced here. That is the issue.

Hopefully we will be the first, when the Appointed Day Order comes in. It will be something in the future. Hon. Members voting here today for this will hold their heads up high and say, ‘We did something for our community.’

Mr Karran: But not enough.

Mr Quirk: Thank you.

The Speaker: Hon. Members, I put the motion that the Consumer Protection (Amendment) Bill be read for the third time. Those in favour, say aye; against, no. The ayes have it.

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

FOR	AGAINST
Mrs Beecroft	None
Mr Bell	
Mr Boot	
Mr Cannan	
Mr Cregeen	
Mr Gawne	
Mr Hall	
Mr Harmer	
Mr Houghton	
Mr Joughin	
Mr Karran	
Mr Malarkey	
Mr Peake	
Mr Quayle	
Mr Quirk	
Mr Robertshaw	
Mr Shimmin	
Mr Singer	

Mr Skelly
Mr Teare
The Speaker
Mr Thomas
Mr Watterson

Mr Karran: It is better than nothing.

Mr Watterson: It could always have been amended to something better.

Mr Karran: Better than nothing.

The Speaker: The motion carries with 23 votes for; none against.