My Questions in the debate on the Product Security and Telecommunications Infrastructure Bill

Rt Hon Sir John Redwood MP (Wokingham) (Con): Will my hon. Friend confirm that operators still need to get the agreement of the landowner or someone else who is empowered to grant that right, so that there is no muddle or confusion?

Julia Lopez, Minister of State for Cabinet Office: Yes. They will be allowed to take out a new agreements, but they still have to be under the existing regime.

To be clear, this will not let an operator unilaterally change, or ask the court to impose a change to, the terms or duration of their current agreement. It allows an additional code right to be conferred on the operator via a new, separate code agreement.

…

Rt Hon Sir John Redwood MP (Wokingham) (Con): I certainly support the Minister in the belief that the more competitive the industry, the better the results that we will get. Has she had representations from people who would like to enter the market about whether the change would make them more likely to do so?

Julia Lopez, Minister of State for Cabinet Office: Most of the people I have spoken to are already in the market and believe that the change will make a big difference to how they roll out. It is a very competitive market with many new entrants. I am not aware of anybody who is just dipping their toe in the water; because it is so competitive, people are already aggressively in the market. We think that the change will really help to accelerate the roll-out to our constituents of fantastic digital infrastructure of the kind that we all understand is fundamental to driving productivity gains, and to reducing the divide between areas that do and do not have that connectivity.

From the contribution of my right hon. Friend the Member for New Forest West on Second Reading, I understand that his concern relates to the effect of clauses 61 and 62 on landowners who already host telecoms apparatus on their land. I recognise that, ultimately, these changes are likely to lead to reductions in the rent received by landowners with a tenancy protected by the Landlord and Tenant Act 1954 or the Business Tenancies (Northern Ireland) Order 1996. I appreciate that that might not have been expected by those entering into such tenancies at the time they were created, but it is also fair to say that market values change over time, and there is never any guarantee that rents received by a landlord will remain constant or increase.

We have also given careful consideration to the effect of clauses 61 and 62,

and have balanced the impact that they might have on landowners with the wider, substantial public benefits that we are pursuing. It is also important to recognise that the changes will not happen until any ongoing agreement expires and comes to be renewed. Furthermore, clauses 63 and 64 introduce separate provisions allowing the landowner to recover compensation for any damage to their land, reduction in its value or reasonable expenses resulting from an operator exercising their code rights.

Clauses 61 to 64 ensure that the 2017 framework will apply to all future agreements. It must be remembered that the code has an underlying purpose, which is to support the delivery of robust digital networks. Our constituents increasingly rely on those networks for critical digital services. Only recently, the National Farmers Union's digital technology survey found that poor mobile signal and unreliable internet access are hampering farming businesses. We know that rural connectivity is a problem for many organisations, and addressing it is one of our priorities as a Government. The Bill, including clauses 61 and 62, aims to address those issues.

I am sure that my right hon. Friend had only noble intentions when tabling his amendments, but although they may benefit some landowners, they have the potential to penalise entire communities by keeping network costs unacceptably high. Clauses 61 and 62 will help to reduce the digital divide between different parts of the country, as they will help to prevent deployment being cheaper in one area than another.

Finally, I turn to amendments 9 to 11 tabled by my right hon. Friend, which would require a party to use alternative dispute resolution processes before making certain applications to a court under the electronic communications code, including where an agreement granting rights under the code is being sought. The provisions on ADR processes in the Bill aim to create more collaborative discussions between landowners and telecoms operators to ensure that litigation is used only as a last resort. I suspect that that is what the amendments seek to ensure as well. Although I sympathise with the intention behind these amendments, the Government oppose them—first, because they are unnecessary; secondly, because ADR is not appropriate in every situation; and thirdly, because they would be counterproductive to the amendments' overall intentions.

The Bill requires operators, when requesting rights under the code, to inform the landowners of the availability of ADR. Crucially, it also creates a requirement that if an application is made to a court, the court will be required to take into account any unreasonable refusal to engage in ADR when awarding costs. Those requirements strongly incentivise the use of ADR without the need to make it mandatory. The Government therefore believe the amendments to be unnecessary.

It is also important to note that ADR may not be suitable in certain cases, such as where a disagreement is based on differing interpretations of the law. Such points of law must be resolved in the courts, and mandatory ADR would add cost and time to that process without offering any benefit.

The Government also believe that the amendments would be counterproductive to

their own goals. If ADR were compulsory, some parties would be compelled to participate in an ADR process they do not want to be involved in, and so would be less inclined to actively engage in the process. That would increase the risk that ADR would fail, which would mean that parties would have to go to court anyway. If that were the case, all that compulsory ADR would have achieved is to add an additional layer of time and costs for landowners, such as charities, sports clubs and farmers. It should also be noted that, when consulted, a clear majority of stakeholders were not in favour of compulsory ADR. I hope that I have given my right hon. Friend assurance that the provisions regarding ADR in the Bill already represent the most effective way of encouraging its use, and I hope that he will not press his amendments to a Division.