

## **OFFICIAL REPORT - Unedited Transcript**

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### **STATES OF JERSEY - 22nd November 2006**

#### **7. Committee of Inquiry: Mobile Telecommunications (P.144/2006)**

##### **The Bailiff:**

We now move to Projet 144 which is Committee of Inquiry: Mobile Telecommunications in the name of Deputy Ryan. May I ask the Greffier to read the proposition?

##### **Deputy A.D. Lewis of St. John:**

Could I just declare an interest here? One of my companies has an interest in one of the telecommunications companies from a public relations point of view. Although I do not have any direct contact with the particular client I think it would be inappropriate for me to remain in the Chamber for this part of the debate, Sir.

##### **The Bailiff:**

Very well, Deputy.

##### **Deputy of St. John:**

I wish to withdraw, thank you.

##### **The Bailiff:**

The interest of the Deputy of St. John is noted.

##### **The Greffier of the States:**

The States are asked to decide whether they are of the opinion: (a) to establish a Committee of Inquiry in accordance with Standing Order 146 in order to investigate: (1) the health risks associated with the emissions from mobile network antennae and dishes; (2) the environmental impact of the proliferation of multiple network infrastructures and to report to the States thereon within a period of 6 months from the establishment of the committee; and (b) to request the Minister for Planning and Environment to suspend consideration of all new and existing planning applications involving the mobile telecommunications network infrastructure pending the results of this investigation.

##### **Deputy P.J.D. Ryan of St. Helier:**

Well, I think I would probably be stating the obvious because we have all had the letters, we have all seen the articles in the newspaper, we have all seen the reports. Sir, there is huge public concern over the health issues surrounding mobile telephony masts. There is considerable environmental concern over the environmental and visual issues on the same subject. Indeed there is confusion over the benefits of competition in the mobile market. I hesitate to mention the last one because my projet, in fact, specifically and deliberately excluded the question of competition and those issues. However, the comments from the Council of Ministers do refer to the competition issues and that is why I mention them this morning and may refer to them also in my speech, simply because the Council of Ministers have chosen to bring the competition issues into the debate. So let us talk about the health issues first. No one can doubt that there is conflicting evidence at best or at worst, depending upon your point of view, and much evidence also giving rise to serious worries coming from some seriously and some very eminently qualified experts. Sir, this is not diminishing. It is not as if this is going away. It is not as if the body of evidence is setting people's minds at rest in any way. What is happening is that the more studies are carried out, the more the concerns are growing. One cannot help but perhaps to compare this to the early stages of the debate on cigarette smoking. One just cannot help but to look at that and see some of the parallels. Sir, we have 45 square miles and we have 4 different sets of infrastructure possibly that are being mooted. This will mean that we will have one of the highest concentrations of mobile antennae and infrastructure in the world. That, Sir,

is without taking into consideration or into account the very high powered police TETRA (Terrestrial Trunk Radio) network system that apparently does not even need approval from the Planning and Environment Minister because it is covered by other laws. My information, just on the TETRA side, is that Jersey is one of only a very few places in the United Kingdom to have taken the risk of installing such a system. But going back to the fact of having possibly 4 sets of infrastructure, it is impossible to have that level of infrastructure without a serious impact on the environment. I, therefore, turn to that side of matters; the environmental and the visual side of it. Surely, Sir, commonsense alone says that we only need really one set of infrastructure. I am hearing a lot of people saying that they feel let down by their leaders. How has this happened? What is to be done? Sir, only an inquiry, I believe, and a halt to further planning approvals until that inquiry reports, will be acceptable to the public. Unfortunately, a 6-month delay will be needed for this to happen properly, I believe. The issues can be examined carefully and calmly, any changes to policy can be recommended and we can see where we go from there. The Council of Ministers has said that the proliferation of masts is as a direct result of the public's wish for more competition in telephony. I have had it said to me, even in private by another Member, and I am quoting - I will not say who it is - but: "Sometimes you have to show leadership. The public do not usually know what they want anyway." Sir, there are times when strong leadership is indeed necessary. I give as an example; when we need to bring in unpopular taxes or something like that. One only has to look toward Senator Le Sueur to see that that is right for examples of it. But in this particular case this surely is about choice. The public must be given the opportunity to express their preference for or against the proliferation of masts, the necessity for the best mobile coverage in the world, the blots on the skylines and in green fields and whether or not competition in this month's mobile gizmo for the techno yuppies; is that relevant in the Jersey context? In that respect, Sir, I notice I cannot even go and have my burger on a Sunday morning on Rozelle Pier now without being confronted, within 5 metres, of a brand new mast attached to the side of the toilet block down on Rozelle. What is going on? The public really do not know what is going on and I certainly do not. The Jersey public are not alone in this; in common all over the country. I have a newspaper article here from - I have mislaid it for a second but it is here somewhere - *The Peterborough Evening Standard* which says that the public are amazed at the proliferation of masts in their area. 255 masts, apparently, have appeared in Peterborough over the last 3 months. We are not alone. This is a phenomenon that is taking place all over the country. Do we really want to take the health risks at this point as well when so many unknowns exist and maybe live to regret it at some future point in time or should we be taking a very conservative line on the proximity of masts to where people live?

**The Bailiff:**

Deputy, I am sorry to interrupt you but this is meant to be a helpful interjection. Standing Order 146 provides that the States may appoint a Committee of Inquiry to inquire into a definite matter of public importance and report on it to the States. Now what your proposition invites the Assembly to find is that this is a definite matter of public importance which requires to be investigated. But the States is not debating at the moment whether there are health risks associated with emissions or whether the environmental impact is such that -- it is an important point of principle and I do not want the States to get into debating health issues or debating environmental issues when that is not the issue before it.

**Deputy P.J.D. Ryan:**

I suppose that I am led down that line principally by the comments from the Council of Ministers which do go into several of these issues.

**The Bailiff:**

Well, I shall say the same thing to any other Member who is tempted to debate these issues.

**Deputy P.J.D. Ryan:**

Although I suspect inevitably you are going to be interjecting quite often in that case.

**The Bailiff:**

One tries.

**Deputy P.J.D. Ryan:**

Well, where do I go? The JT (Jersey Telecom) licence allows the JCRA (Jersey Competition Regulatory Authority) to intervene. We need to look at that in the public inquiry. Maybe the shared Jersey Telecom infrastructure can be improved but surely does not need to be duplicated. That again can be looked into in the public inquiry. Anyway, I will try to keep to the point, Sir. Local mobile coverage into every nook and cranny of Jersey's countryside is surely unnecessary. How many Members indeed have problems receiving calls on their mobile phone now? Is it not good enough now? I have also heard a couple of Members say that rather than a public inquiry, why I was not considering a Scrutiny inquiry? Well, I think what I would say to that is that the question of whether or not it should be a Scrutiny inquiry is secondary to the question of whether there should be an inquiry. If we can decide whether there should be an inquiry I think we can move on to whether it should be a Scrutiny inquiry or not. Let us first of all decide whether an inquiry is necessary. I think regardless of whether it is Scrutiny led or a public led inquiry we are going to need 6 months to do it. Sir, the public want an inquiry. Whether it is Scrutiny led or not, as I say, is secondary. But will the Minister for Planning and Environment be prepared to delay any decisions on new masts until after an inquiry has finished and presented its report? I would be interested to see whether he is prepared to do that, whether it is Scrutiny led or indeed a public one. Finally, my purpose in bringing this to the States is it is not intended to be criticism. This inquiry, it is not my intention that it will be used as a vehicle to allocate any blame to anyone. It is not even really to see why the situation has arisen. I think we can all see why the situation has arisen. Why we are where we are, we can see that. But it is important to establish the facts, seek a sensible and publicly acceptable way forward for the public. That is the crux of the matter. We need to move forward and we need to move forward in a way that is sensible and will be publicly accepted. We are not at that point now. I do not want politics also to get in the way. I do not want this to degenerate into some form of clash of wills. You know, who decides? The Council of Ministers or Scrutiny or the States as a whole? To get embroiled in that kind of politics is to fail in our duty to the public. That is why I believe that we need this inquiry. It should not be seeking blame. It should be seeking the right way forward and the publicly acceptable way forward, Sir. I move the proposition and open it to debate.

**The Bailiff:**

Is the proposition seconded? **[Seconded]**

**Senator F.E. Cohen:**

I will endeavour not to stray into the area too much of assessing health risks. If you feel, Sir, that I am doing so, please stop me, but I do feel that I need to explain something of the science in relation to the decisions that I have been making up to now. I fully understand that some Islanders have concern about the health implications surrounding mobile phone masts. Quite properly a number of politicians are now articulating their constituents' concerns and I know that a number of politicians have personal concerns about the health risks. There are genuine and honestly held concerns in the community. It is the role of the Health Protection Department rather than Planning to determine health safeguards for the public. However, when I came into office at the beginning of this year I recognised that there was concern over the potential health impacts of mobile phone base stations and requested an informed opinion from Health and Social Services as to their likely health impact on the basis of sound, scientific evidence. The Health Minister has provided you with a copy of this report today. The report from Health Protection in April 2004 was clear that no sound or reliable scientific evidence has been produced which indicates that exposure to the emissions from base stations is harmful in any way to human health. The levels involved in Jersey are only a small fraction of the level of emission recommended as safe by Lord Stewart's independent expert group on mobile phones in 2000. Adoption of these safe levels was an integral part of the precautionary approach recommended by Lord Stewart's report. I have followed this advice over the last year and consulted with the Health Protection Department on every telecommunication planning application. On 26th October, again due to renewed public concern over potential health impacts and claims that new evidence existed to indicate previously unknown health risks, I called a moratorium on the determination of telecommunication applications. I invited Islanders to submit representations on health concerns. These representations were considered by the Health Protection Department last

week who have now advised that nothing submitted altered the advice they gave in April. Not only has the Planning Department complied with the Health Department's recommendation for these telecommunications' applications but I have gone beyond these recommendations and beyond the best practice in the UK by requiring that all applications provide the estimated levels of emissions and by only giving temporary permissions. I require that following the commissioning of the installation the actual levels are measured by an engineer and verified by the Health Protection Department before permanent permission is granted. Thus I can say with confidence that we are among the most cautious jurisdictions in the world. It should be noted, however, that estimated levels of emissions are a theoretical maximum based on ideal circumstances and our worst-case levels. The actual emissions from a base station can be expected to be 100 to 10,000 times less than the estimates. Notwithstanding this, at individual sites the estimated level of emissions proposed in Jersey is well within the maximum international guidelines for emissions which were set at a significantly lower level than those levels tested as having any effect on human health. This international reference level for maximum exposure for the public is a precautionary approach in itself. However, most of the information provided to me as a result of the moratorium was research that questioned the international guideline. The estimated level of emissions in Jersey is also well within the levels recommended by the best know alternative reports including Salzburg, Dr. Sherry and Dr. Hyland. These recommended a maximum emission of one milliwatt per metre squared against an ICNIRP (International Commission on Non-Ionising Radiation Protection) safe level of 4.5 milliwatts per metre squared. We are much lower - I repeat much lower - than either. As a way of background, the emissions received from a base station are known as electromagnetic emissions, which is the energy stored in an electromagnetic field. Electromagnetic fields are emitted not only by mobile phones and base stations but also broadcasting equipment, radar facilities and all electrical and electronic equipment. To advise the House as a comparison, the body absorbs up to 5 times more of the signal from FM radio and television than from mobile phone base stations. FM radio and television is an existing energy field that surrounds us at all times. Radio and television broadcasts have been in operation for the past 50 or more years without any known adverse health consequence being established. Mobile phone base stations emit the same type of electromagnetic field as these other transmitting stations. To provide some comparative figures, I cite the following examples. The standard leakage of a microwave oven is 140 times greater than from a mobile phone base station. A digital cordless home phone is more than 11 times greater than those from a base station. Baby monitoring devices are more than 8 times greater than those from a base station. So you see, an inquiry into the health risks of mobile phone technology cannot logically be solely about mobile phones. If the House considers there to be enough valid and reasonable concern about the health risk of electromagnetic emissions it should be considering an inquiry into all sources of electromagnetic emissions including all wireless technologies, AM/FM radio, TV broadcasting and all electrical and electronic household devices. This, however, is the purpose of many different international commissions with budgets of many hundreds of millions of dollars. I simply cannot see that Jersey can make a useful contribution to the world research into this issue by holding a public inquiry at this stage. I am confident that our health professionals are completely competent in this area and are up-to-date with all the research and all the new studies. To this end I am satisfied that a 6 month inquiry is unlikely to add more to the international knowledge base in this area. There have been reports that other countries have adopted exclusion zones or set minimum distances from mobile phone base stations to residences. The main countries that have been stated as having exclusion zones are France, Australia and New Zealand. The fact is that none of these countries have adopted any statutory or federal exclusion zones or any other arbitrary additional safety factors beyond the exposure limits set by the international guideline. I have had direct written confirmation from the French Agency for Environmental and Occupational Health Safety and the French Minister for Health that: "France has not adopted any specific regulations relating to exclusion zones between mobile phone base stations and schools or residence." That is an exact quote. I have also had written confirmation from the Australian Radiation Protection and Nuclear Safety Agency that Australia, and I quote: "Does not have any distance requirements between facility and other land uses such as residence, schools or hospitals." New Zealand has a trans-Tasman agreement that adopts the standards of Australia and, thus, also does not have any distance requirements. There are reports of a proposed law in France that will introduce exclusion zones too. This proposed law is a private bill put forward by one member of

parliament, Mr. Christophe Masse. The private bill has not yet been to general discussion of the Assembly and is currently with a commission to test its validity. The process for private bills in France is similar to that in the UK. The process is lengthy and it is reasonable to presume that it will be in the order of years for this bill to make any progress whatsoever. However, despite other countries not having exclusion zones the practicality of Jersey adopting exclusion zones would be impossible. It would be impossible to find enough land parcels in Jersey to support a mobile network that was 300 to 500 metres from any home or school. There have been several installations to date that have been within this distance. The conclusion is that despite exclusion zones not being adopted by any government worldwide, the reality is that in Jersey it would not be possible to physically achieve these exclusion zones. Thus, insisting on exclusion zones would render mobile competition impossible and, more importantly, if applied retrospectively it may require the complete dismantling of the existing networks. There has been criticism that we are not doing all we can to make mobile phone companies share or use the existing infrastructure in the Island. Again this is simply untrue. All existing infrastructure that can physically support additional equipment is currently being shared by 2 or more companies. Each company begins planning their network by siting installations on existing towers and shared rooftop sites. It is simply cheaper for the companies to put equipment on existing infrastructure than to build a new mast. However, there are areas on the Island where there is no existing infrastructure and, yes, these are mostly in the countryside. Where there are no lattice towers or appropriate rooftop sites the companies apply for a new mast. In these instances I have insisted that the new mast be a wooden clad replica telegraph pole design. This design hides as much equipment as possible inside the wooden pole and is the most appropriate design for Jersey than the mass-produced designs seen in the UK. I have gone to considerable effort to ensure that the wooden masts that are acceptable in Jersey are the very best that we can possibly find and they are extremely costly. But despite the high cost we have insisted that if you want to put up a mast in the countryside you have to go the wooden telegraph pole route. I would say to the House that I do have some concerns about the attached equipment. The attached equipment comprises of one or 2 boxes. They are visually intrusive and I am doing my very best to ensure that they are camouflaged as much as possible. I have recently written to one of the new communications companies in the Island advising them that they have not done enough to camouflage the cabinets and that they must do so within a period of 30 days and I think we are halfway through that now. To continue: the disadvantage of the wooden clad pole is that it cannot be shared. The reason for that is that a lot of the electronics are hidden within the pole. The pole has a hollow metal centre within which a lot of the electronics are contained. The only way more sharing is possible would be to build structures that can be shared. That is, large lattice masts like Five Oaks or Les Platons. This is considered to be detrimental to the environment and the visual amenity of the Island and far more so than allowing a number of wooden clad poles. To put it into perspective, had we gone the lattice mast route I understand that we would have required 20 to 30 new lattice masts of the size of those at Five Oaks. I believe that would have been an unacceptable impact. To go on to numbers. The anticipated total installations for all the 3 companies currently on the Island will be approximately 150 installations. Of this total, between 70 to 80 will be wooden clad telegraph pole designs and, of these, about 40 are already in place. The remainder are installations on existing lattice towers or on rooftop sites. There are currently over 100 installations erected over the Island, about 40 of which, as I have said, are wooden clad telegraph poles. It is important to appreciate that there are, therefore, only a further 40 to 50 installations to be installed, not all of which will be wooden telegraph poles. Therefore, the purpose of an inquiry must be carefully considered. What could an inquiry constructively achieve? We have 2 mobile phone companies with almost complete networks. The third company has a third of its installations already approved. If the House considers health risks of these types of emissions as significant then we must logically question all forms of technology that emit these emissions. The key question is whether or not Members believe that there really are any grounds for concern in relation to health risks. I believe there is no risk and, consequently, I believe it is my obligation to reassure Islanders that having considered all the evidence I believe they represent no identifiable risk to Islanders. These masts emit waves that are not different in principle from the waves emitted by a variety of installations and household appliances. I can reassure, therefore, open-minded Islanders that I would not mind having a mast near my home. Indeed, I live near one of the main TV masts. I have brought up 4 children there without worrying for one moment that they were constantly being exposed to radio emissions. I

believe in the accredited science and, therefore, I will be voting against the proposition and I urge other Members to do the same.

**Deputy K.C. Lewis:**

I will be supporting the Committee of Inquiry into mobile telecommunications. Not only will we have a tripling or quadrupling of transmission masts but I believe the technology is different. As where Jersey Telecom use the existing landline to send the signals to the transmitters, the new providers transmit the signals to the transmitters by microwave. Not only do we have a transmission from the transmitter but a microwave signal to the transmitter. With a potential 150 to 200 new transmission masts being erected, this is indeed very worrying. It is also my understanding that contracts have been signed with the new mobile providers. I would be obliged if the Solicitor General on her return to the Chamber would answer the question as to whether we would be open to legal challenge if these new providers were to be stopped or delayed in starting their new mobile networks.

**Deputy R.C. Duhamel of St. Saviour:**

Members, of course, will be aware of Standing Orders, in particular Standing Order 79 which allows any Member of the States to propose without notice that the debate on any proposition be suspended and the States request the relevant Scrutiny Panel to consider having the proposition referred to it. I rise, Sir, to invoke this particular clause and to suggest --

**The Bailiff:**

Sorry, which Standing Order is this?

**Deputy R.C. Duhamel:**

This is 79, Sir, page 40. Standing Order 79 clauses 7 and 8 also says that if the relevant Scrutiny Panel has any doubt as to which panel or panels should be assigned the scrutiny of the topic to which the proposition relates then the presiding officer, Sir - which is yourself - shall take the advice of the president of the Chairmen's Committee, which is me, Sir. On that basis I would advise the House that I would consider in that capacity that the proposition relates to 3 panels: the Health and Social Security and Housing, the Environment Panel and the Economic Affairs Panel. I make the proposition, Sir. This will be for those Scrutiny Panels to come back to the House at the next meeting and to decide whether or not that they consider that the comments in relation to the comments that have been put forward by the Council of Ministers as to why a Committee of Inquiry should not go ahead, whether or not in fact, Sir, all the reasons for the inquiry going ahead or not have been covered within those comments.

**The Bailiff:**

You say there are ...?

**Deputy R.C. Duhamel:**

There are 3 panels, Sir.

**The Bailiff:**

I just wonder if that is practical, Deputy.

**Deputy R.C. Duhamel:**

I think it is practical, Sir, because we have 3 collections of persons and committees who are capable of looking independently from their own particular perspective.

**The Bailiff:**

Standing Order 79(1)(b) says: "That any Member of the States may propose without notice that the States request the relevant Scrutiny Panel to consider having the proposition referred to it." You are inviting me to construe that as meaning any relevant Scrutiny --

**Deputy R.C. Duhamel:**

No, Sir, it goes on; if you read item 7, it does say that the relevant Scrutiny Panel is the Scrutiny Panel

or Panels, plural, assigned scrutiny of the topic to which the proposition relates and it goes on further, Sir, to say that if there is any doubt as to which panel is relevant then the presiding officer shall take the advice of the president of the Chairmen's Committee.

**The Bailiff:**

And that is you. **[Laughter]** So, you are -- okay, yes. Deputy, I am sorry, neither The Greffier nor I caught the third -- you say the Health Panel is obviously one, the Environment Scrutiny Panel and the ...

**Deputy R.C. Duhamel:**

Sorry, there are 3 Panels. Economic Affairs Panel.

**The Bailiff:**

Economic Affairs. Very well, Standing Order 79 allows any Member to propose that the debate on a proposition be suspended and that the States request the relevant Scrutiny Panel or Panels to consider having the proposition referred to it. Deputy Duhamel has made such a proposition. Is that proposition seconded? **[Seconded]** Very well. Well, the debate on Deputy Ryan's proposition is now suspended and the matter before the House is the proposition of Deputy Duhamel, that the debate on Deputy Ryan's proposition be suspended so that the matter may be referred to the relevant Scrutiny Panels to determine at the next meeting whether or not they wish to have the matters referred to them.

**Senator S. Syvret:**

Could we hear from Deputy Ryan whether he might be prepared to accept that proposition or not? It might save time

**Deputy G.W.J. de Faye of St. Helier:**

Sir, can I raise a point of order?

**The Bailiff:**

Yes.

**Deputy G.W.J. de Faye:**

It does seem to me that the Standing Order is quite clear. Once a Member has raised this it is up to the States to request the matter to go ahead, which seems to me that requires a vote of the States to determine whether the States is requesting that or not and I believe that at the very minimum the States ought to be able to debate whether this element of Standing Orders is to go ahead or not. It does say the States has to request it and frankly, although I respect Deputy Duhamel, he is one member of the States, not the States.

**The Bailiff:**

Standing Order 79(3) says that if the States agree to the proposal the debate shall be suspended until the next meeting. So, there is a debate to be had and the Assembly must now decide whether or not to accede to the proposal of Deputy Duhamel.

**Senator S. Syvret:**

Sir, we are waiting to see if the proposer of the main proposition would accept the --

**The Bailiff:**

It is still a matter for the Assembly, as Deputy de Faye has pointed out, but I do not know if Deputy Ryan wishes to address the Assembly at this stage.

**Deputy P.J.D. Ryan:**

Yes, I do. The public want --

**The Bailiff:**

Yes, he wishes to address the Assembly. **[Laughter]**

**Deputy P.J.D. Ryan:**

Can we have a vote on that, Sir? I will start again, Sir. The issues are quite simple. There is huge concern out there on health, on environment and there is confusion over the commercial side, the do we need the competition in mobile phones? Certainly we need the competition in fixed lines and broadband and all of those other things but do we need them in mobile phones? The question of whether it is a public inquiry or whether it is a Scrutiny-led inquiry, to be honest, is secondary in my opinion. So, Sir, if Scrutiny want to lead this inquiry then I would support that route, yes.

**Deputy G.W.J. de Faye:**

I would encourage the House to reject this particular plan of action, for a number of, I think, very sound reasons. First of all I entirely dispute the suggestion that there is huge concern out there among the public of the Island. Well, I hear chuckling from some Members who clearly must walk around with their eyes closed, which does not come as a surprise in some cases. The fact is that there are more mobile phone handsets in this Island than there are people and if there really was a genuine concern about the risk of emissions caused by mobile phones, which we already know are tens, hundreds or thousands of times greater than the emissions from mobile masts, then people would stop using mobile phones. But, no, they do not; they issue them to their children. So I disagree entirely that there is a huge level of public concern out there. There is confusion and that is because a number of politicians have added their names to the confused people who are talking and debating about whether there are indeed health issues and the only reality that one can attach to that is that one cannot prove --

**Deputy J.A. Martin of St. Helier:**

Would the Deputy give way a minute, Sir?

**Deputy G.W.J. de Faye:**

No.

**The Bailiff:**

Thank you, Deputy, if you do not mind?

**Deputy J.A. Martin:**

I just want to know what this relevance is to this debate?

**The Bailiff:**

What is it, Deputy, in the word "no" you do not understand?

**Deputy G.W.J. de Faye:**

Now, is this appropriate for either a Committee of Inquiry or Scrutiny? I think we have to begin to realise that Scrutiny is a resource within the States. It costs money to run. We have only just agreed that there will be a new Scrutiny Committee and each one comes with a bill of roughly £188,000. Scrutiny is a resource that States' Members should use wisely. It is a resource that should scrutinise matters of serious import to the States, but is this a matter of serious import? I say (1) there is no huge public concern in reality, and (2) what is a Committee of Inquiry or a Jersey Scrutiny Panel? What level of light will it cast on an issue that is already being investigated by dozens of authorities throughout the United Kingdom and Europe. We are awash with information and all the information indicates that the health risk is not measurable and not known and may not exist at all. What we do have is a substantial amount of information that tells us that there are more dangerous things in our own homes, like television sets, as the Minister outlined, that make mobile phone use and the location of mobile masts pale into insignificance by comparison when you just measure the levels of radiation. So I say, and urge the House, let us deal with this matter today. It is a waste of Scrutiny time and resource to simply shuffle this under the carpet for a while so it can pop up later on and I urge the House to reject this particular procedural move.

**Senator M.E. Vibert:**

Sir, can I ask for some clarification, please? I think I understand that if the move by Deputy Duhamel

is rejected we carry on with the substantive debate. Could you outline again what happens if Deputy Duhamel's proposal was approved?

**The Bailiff:**

If Deputy Duhamel's proposal is approved, the debate is suspended until the next meeting. At the next meeting the duty of the presiding officer is to ask the chairman of the relevant Scrutiny Panels whether they wish to have the propositions referred to the panel, and the States, I think, then has a choice either to resume the debate, that is the debate on the proposition of Deputy Ryan, or to defer that until another date when the debate must resume. If the States decides to list the debate at a future date then obviously the chairmen of the Scrutiny Panels will investigate the matter in the meantime.

**Senator S. Syvret:**

Just to be clear about this. Is it not the case that Scrutiny is autonomous, has a degree of autonomy in any event, and if the Environment Scrutiny Panel wants to carry out an investigation and inquiry into mobile phone masts they are entitled and perfectly at liberty to do so?

**The Bailiff:**

Well, that seems to me to be the position now, Senator, yes.

**Deputy G.P. Southern:**

Again, clarification. Is it the case that were the proposition to be referred to the Scrutiny Panel or Panels that they undertake to return with a report within 4 sessions? I think that is the case, is it not?

**The Bailiff:**

Well, paragraph 4 of Standing Order 79 says: "At the next meeting". This is on the assumption the States agree to suspend the debate: "The Presiding Officer should ask the Chairmen of the Scrutiny Panels whether he or she wishes to have the proposition referred to the panel and (a) if the chairman confirms that, the panel having considered the matter, he or she does not wish to have the proposition referred to the panel, the States may either resume the debate immediately or decide at which meeting the debate shall be listed to resume or (b) if the chairman confirms that the panel having considered the matter, he or she wishes to have the proposition referred to the panel, the States must decide at which meeting the debate shall be listed to resume. The debate must be listed to resume at a meeting, which is not later than the fourth meeting, disregarding any additional meeting day, following the meeting at which the chairman confirms the panel's decision." So, if the States decides to go with Deputy Duhamel now, then the matter will be adjourned until the next meeting and then I have to ask each of the chairmen of the relevant Scrutiny Panels whether they wish to have the matter referred to them. If they do, the States then lists Deputy Ryan's proposition for debate at some future meeting, not more than 4 ahead. If the Scrutiny Panels do not wish to have the matter referred to them, then clearly the debate on Deputy Ryan's proposition continues. That is the procedural position.

**Deputy P.J.D. Ryan:**

May I seek some clarification from the Minister for Planning and Environment, Sir, which I forgot to mention a couple of minutes ago when I spoke, if you will allow me to?

**The Bailiff:**

Is that relevant to Deputy Duhamel's proposition?

**Deputy P.J.D. Ryan:**

I think it is, Sir, yes, because I think it may affect the way Members vote. and the question to the Minister will be, is he prepared to maintain the status quo or the current status quo, in other words, where he has suspended decisions is he prepared to extend that status quo while a Scrutiny review possibly is undertaken and a report produced?

**Senator F.E. Cohen:**

I had anticipated that and I am afraid I have not got the answer. I think that if it was a matter of a couple of weeks, a few weeks, then it would be possible to defer any decision-making but allow the

applications to progress to the point of decision-making. What I am concerned about is straying into the area where I am deemed not to be determining applications within a reasonable time. So I think if it is a matter of a few weeks, yes, an accommodation can be reached that would prevent formal decisions being made but I think if it is longer than that I would need to seek advice from the Law Officer's Department.

**Deputy C.F. Labey of Grouville:**

Could I likewise seek clarification from the Minister of Economic Development, in that during the same period of time, however long it takes for the Scrutiny Panel to come back with their findings, that he will give a direction to the JCRA (Jersey Competition Regulatory Authority) not to issue any more licences to these telephone companies, because I believe there is a fourth in the wings?

**Senator P.F.C. Ozouf:**

Sometimes this Assembly seems to get into a real tangle. I am standing here now wondering what we are discussing. I think that I am right in saying that we are discussing whether or not we should ask Scrutiny whether or not to have a Committee of Inquiry, not to whether or not there is a general issue. The matter before the Assembly, the key question in debating, is not whether or not Scrutiny thinks there should be an investigation into telephone masts and telecommunications matters because of Senator Syvret's intervention agreed by the chairman of the Privileges and Procedures Committee. Let us be clear. Scrutiny can invoke their own investigations into any matters and I was not aware - and I enjoy, I hope, reasonable communication on the plans and concerns and agendas of the Economic Affairs Scrutiny Panel, not obviously the others - but I was not aware that they were, until now, interested in this matter and I think it is absolutely clear that the question before the Assembly is whether or not we should be asking the Scrutiny Panel whether or not there should be a Committee of Inquiry. Now, the powers of a Committee of Inquiry are, unless I am wrong, the same as the powers of Scrutiny. We have given the Scrutiny Panels significant powers, those equivalent to a Committee of Inquiry. So, this procedural move, I have to say, is confusing and frankly I see no case to ask a Scrutiny Panel whether or not there should be a Committee of Inquiry. What the key question is - and that is really the core of the debate - do we have enough information in order to invoke some sort of review? Not this procedural issue. I think we should absolutely vote against the procedural device that Deputy Duhamel has put forward in suggesting that we should have a review on whether or not we should have a review. Let us get back to the main debate about whether or not there should be a Committee of Inquiry because the Committee of Inquiry could be, if we went on to agree, could be populated with members of all of those Scrutiny Panels, subject to a proposition before the Assembly, and we can deal with it that way, but for goodness sake let us get back to the main debate as to whether or not we think there should be a review in this matter. Let us not confuse the matter and go into the long grass. On the specific issue that the Deputy of Grouville raised - it has been asked, so I must, I think, answer it, Sir - and that is -- and I thought and I hoped the Deputy has read the, I thought, very helpful letter by the JCRA and again there appears to be in this whole matter a number of complete misunderstandings and inaccuracies which have been put around the place. There has not been a fourth Telco operator approved by the JCRA.

**Deputy of Grouville:**

I know there has not. I did not say that -- I said there was one in the wings and could we have this assurance that a licence would not be given to the fourth while all this is going on.

**Senator P.F.C. Ozouf:**

I think that I can say to the Assembly with some degree of knowledge that I would imagine that the JCRA -- I do not think that I have the powers to do so. Deputy Ryan, who is the mover of this proposition, is in a very curious situation because in fact he - and I wish to remind the Assembly - that he had responsibility for telecommunications matters under the Economic Development Committee's previous responsibilities and if anybody would have been giving directions -- I inherited the situation. Mobile phone licences were issued in January and if there was concern about this issue then that would have been an issue which the previous Committee delegated to Deputy Ryan would have taken. Now, it appears that he has either done a 180-degree turn or vault or a backward somersault or something. But certainly, here is the individual that had responsibility for

telecommunications matters, who had the ability to invite the Economic Development Committee to give directions, which are narrowly on social and environmental matters, and he did not do so. I have not had an explanation as to why he has not done it - and I am not going to give way. The fact is that I do not believe that I do have the powers to instruct the JCRA not to give a further licence but that does not necessarily matter because it is going to be ultimately a matter for the Planning and Environment Department and the Planning and Environment Minister whether or not he is persuaded to allow more masts. He has given this Assembly an excellent address. I think he has given a comprehensive understanding of this issue and, for goodness sake, let us get back to the core issue as to whether or not we want to have an inquiry or not, and not whether or not we should ask the Scrutiny Panel whether they think we should have an inquiry and then go around in complete circles. Let us get on with the issue and decide whether or not to have a Committee of Inquiry or not and I urge Members to reject what is effectively a procedural delaying device, which I do not think is appropriate on this occasion.

**Deputy P.J.D. Ryan:**

May I make just a point of correction to the last speaker, Sir? It is covered in the report that in fact it was the Industries Committee that issued the instructions and the directions to the JCRA on delegation, not the previous EDC (Economic Development Committee), of which he was a member.

**Senator P.F.C. Ozouf:**

I simply need to correct that. It is the former Industries Committee that set up the JCRA. It is over the previous committee's watch that mobile telephony licences were effectively dealt with, and it is under his watch that mobile phone licenses with the JCRA, not the previous Industries Committee. Let us be absolutely clear.

**Senator F.H. Walker:**

Could I just ask for a point of clarification, please? Is Senator Ozouf's interpretation correct, that the effect of Deputy Duhamel's proposal would be for Scrutiny to decide whether or not a Committee of Inquiry goes ahead or would it be -- well, that is what I understood Senator Ozouf to say.

**The Bailiff:**

I do not think that is what Senator Ozouf said. I think Senator Ozouf was quite correct, that the effect of Deputy Duhamel's proposition is to ask the States to agree that Scrutiny Panels or one Scrutiny Panel should investigate the question of whether or not there should be a Committee of Inquiry and advise the States, which then has to decide whether or not there should be a Committee of Inquiry on the proposition of Deputy Ryan. Deputy Ryan's proposition does not go away if the States adopt the proposition of Deputy Duhamel.

**Deputy P.V.F. Le Claire:**

I am less certain about what I was going to say, I am afraid, Sir.

**The Bailiff:**

Well, you can sit down and think about it. **[Laughter]**

**Deputy P.V.F. Le Claire:**

Probably I would just take the opportunity to say I will give this one a miss, I think.

**Senator M.E. Vibert:**

I find this procedural intervention of the chairman of the Scrutiny Chairmen Committee totally unhelpful. This proposition of Deputy Ryan's has been lodged for 3 weeks. If Scrutiny wished to look at it they could have commented. They could have let us know within those 3 weeks. To suddenly bob up while we are trying to have a debate on the substantive issue and to introduce what appears to be a delaying tactic is not doing Scrutiny any favours at all in trying to set it up to what it should be. We would have to ask ourselves: "What will be achieved by asking what appears to be 3 Scrutiny Panels to consider whether they wish to scrutinise this proposition or not?" If Scrutiny wish to look at the mobile phone issue, any one of the panels are entitled to do so and they can do that. I

believe this is a delaying tactic. I do not believe that it will prove anything. They will have to come back at the next States sitting, say whether they wish to scrutinise or not. I do not think that -- all it will do is put off the real issue of whether there is a need for Jersey to investigate the health risks and environmental impact from mobile phone antennae and whether such an inquiry would achieve anything. Well, my view is that we should make a decision today. My answer to Deputy Duhamel is, no, it is pointless to refer it to see whether Scrutiny want to look at it or not, as Scrutiny can look at it if they wish. My answer - and I may speak in the debate or return to it - would be that it would be pointless to have a Committee of Inquiry because both Scrutiny and the Committee of Inquiry in this case will be incapable of achieving anything worthwhile, and just be further delay.

**Senator J.L. Perchard:**

The request by the president of the Chairman's Panel to refer the proposition before us to Scrutiny is devious and it is regrettable. I believe the --

**The Bailiff:**

Senator, I am sorry but devious is not a word which you are --

**Senator J.L. Perchard:**

Mischievous, Sir, I do apologise.

**The Bailiff:**

Mischievous is all right.

**Senator J.L. Perchard:**

Mischievous and regrettable. I believe the Deputy is using a tool - which in fairness is available to him - for a use for which it was unintended. We have a perfectly reasonable proposition in front of us from Deputy Ryan that requires the States to make a decision. The proposal by the president of the Chairmen's Committee to defer making that decision is nothing but an unnecessary and diverting, delaying tactic. We have here the whole States Assembly, all of us, the opportunity to support or otherwise a Committee of Inquiry. Why should we advocate that responsibility to a few of my colleagues on Scrutiny?

**Deputy J.A. Martin:**

Now you have explained the exact position we are in and you agree with Senator Ozouf, I will not be supporting this proposition either. What I am concerned about, and I am quoting from the JCRA, and that is what the Deputy of Grouville is concerned about. This is a quote from the transcript of JCRA and it says: "I think I mentioned that there is no fourth operator at the moment, so we are talking about 3 operators in fixed and 3 operators in mobiles. There is a limit as to how much crystal ball gazing you can do. You have to look at the business case that is put to you and recognise that companies do not make the decision lightly to enter into new markets and make investments of this kind, so if we are presented [that is the JCRA] with a credible business plan and successful track record of competition elsewhere, we do not think it is appropriate for us to stand in the way of companies who want to come." Now there are directions from - it is now the Economic Minister - to do with social and environment policies but another quote from the JCRA says: "As far as I know, or certainly since I have been with the JCRA, we have not received any directions on social policy but it is conceivable, for example, that this could happen." They go on to give a hypothetical view, Sir, on pensioners' lines. I think it is wide enough that the JCRA could be directed and I think that is where other people might not be persuaded now, after the Senator's speech, to support Deputy Duhamel because it is a delaying tactic but it is a delaying tactic without any certainty that no more masts or operators will be entering into the market. I would just say, Sir, at the moment, even if the proposition goes ahead, I very much doubt if I would support that, but that is where I stand on this proposal.

**Senator P.F.C. Ozouf:**

Would the Deputy give way before she finishes?

**Deputy J.A. Martin:**

I have finished, Sir, I think, if you would just let me sit down. **[Laughter]** As I do understand “give way” I will let you. Thank you.

**Senator P.F.C. Ozouf:**

Had she finished or was she going to --

**The Bailiff:**

I think the Deputy is very generously giving way to you before she sits down.

**Senator P.F.C. Ozouf:**

I thank the Deputy most warmly. I just want to say, Sir, that what I probably should have said is that in the issue of this fourth spectrum being allocated there is no -- there has been, as I understand it, no contact with the company for some time in relation to an application. We would effectively be dealing with a number of months away and the company had their spectrum allocated a while ago. There is no evidence that there is any appetite for them to take it up - and I am happy to consider giving directions for the avoidance of doubt - but there is no business plan, there is no application, there is no work. There is nothing going ahead, so therefore it is highly unlikely, in the foreseeable future, that --

**Deputy J.A. Martin:**

Sorry, Sir, would the Senator give way to me now? He has just said he would consider giving directions. In his previous speech he said he did not think he had the powers to give direction. Which is the right statement, Sir, please?

**Senator P.F.C. Ozouf:**

I am happy to enter into discussion with the JCRA. My own interpretation of the powers is that I think that directions simply on environmental and social matters are not sufficiently robust to give directions. I can give them guidance but I can assure the Assembly that the fourth mobile phone operator is unlikely to happen for the foreseeable time and I will keep the Assembly and the Economic Affairs Scrutiny Panel apprised of exactly whether or not that changes. I do not think we need to be concerned about a fourth operator at this moment in time.

**Deputy J.A. Martin:**

I had finished my speech, thank you, Sir. Thank you for the clarification. It is very clear as mud.

**Deputy R.G. Le Hérissier:**

I would like to address the narrow issue because I was present at the Chair's Committee and was not in agreement with the notion. I changed my mind having heard the arguments. I do not think it is, Sir, as Senator Perchard said, some potentially underhanded move. I think it was a genuine move motivated by the fact that people are going to say: “Look, you are Scrutiny, it is your job to keep up to speed with all these emerging issues and really you should deal with it.” I thought that was wrong, Sir, and I argued that in the committee to no real effect. What I would be interested in hearing from the Members, Sir, because I thought partly it was wrong to tie the hands of a new group who would lead it, because Health obviously baulked large in this particular matter, and what I would like to hear, Sir, from a purely pragmatic point of view, are the views of the 3 chairs who have been identified as to whether it should proceed. I think Scrutiny is absolutely up to the eyeballs with all sorts of reviews, has enormous pressures. There are department business plans going to land on their desk and I would much prefer the clean way of a committee. So, I would like to hear, Sir, from the panel chairs in this regard.

**Deputy J.A.N. Le Fondre of St. Lawrence:**

It is really a point of clarification initially, I would say. Would it be reasonable to assume that in reporting on the proposition by Deputy Ryan, that Scrutiny will have to look at the issues behind that proposition in arriving at their decision, namely health, environment, et cetera? In other words, effectively one will get a review on the issues rather than just a view as to whether there should be a

public inquiry on the issues. That was seeking a point of clarification from either yourself or from the chairman of the --

**The Bailiff:**

If you want it from the chair, Deputy Duhamel will clearly deal with the matter when he replies. It seems to me that the Scrutiny Panels will obviously have to give some consideration as to whether or not there should be a Committee of Inquiry, and the extent to which they delve into the issues would be a matter for the Scrutiny Panels.

**Deputy C.J. Scott Warren:**

Well, I think there have been many opportunities in this House to be confused from States' Members and I say today is probably one of the best of these. I have been wavering because personally I do think, that despite the excellent speech given by the Minister of Planning, that the public would welcome some form of inquiry, be it a Committee of Inquiry or a Scrutiny Panel inquiry. It seems a bit of a double process by going down the route that we are debating now of going to the Scrutiny Panel first because ultimately that would possibly be the aim if this proposition is successful. So, I think I would prefer to get to the main proposition where we can go ahead now, so I will not support the suggestion that we send this to Deputy Duhamel first.

**Deputy G.P. Southern:**

I hope I shall bring some clarity to the possibilities in front of us now in my speech. If I fail to, it will not be for lack of trying. We are asked to decide whether to refer to a Scrutiny Panel, or a Sub-Panel of Scrutiny, the decision to establish a Committee of Inquiry into the health risks associated with the emissions of the mobile network antennae and dishes. A large task, which has by and large not necessarily been completed as a result of many, many such inquiries into the health risks, the results of which are somewhat mixed and may still be regarded as open. So, inevitably, a Commission of Inquiry with that breadth and depth of reference is going to take a substantial amount of time. Is it appropriate to refer that to Scrutiny to assess whether that is a valid way forward or is there an alternative is perhaps worth considering because undoubtedly despite what Deputy de Faye asserts, there is no doubt, I do not think, that this is a matter of intense public concern and matters of public concern are part of what Scrutiny has and should be looking at - has to and should be looking at. It is part of our remit. So, there is no doubt that on those terms, matters of public concern, it is entirely appropriate to refer this issue to a Scrutiny Panel. The question is, in what sense might a Scrutiny Panel or Sub-Panel provide something useful? In doing so, in considering whether that is appropriate, I think one has to turn to the report of April 2006 from the *Health Protection Public Health Services Report on Mobile Phones and Health* and at the back of that, in the conclusions and the recommendations, the report highlights the critical areas, I believe, which are far less in scope than what is before us now - the health risk associated for the Committee of Inquiry - but nonetheless relevant to that public concern and I believe it might be appropriate that Scrutiny does take on this smaller field to address the issues of public concern. So, for example - I do not know what the page number is, it talks about annoyance - on the effects of base stations: "Annoyance or discomfort may not be pathological per se but if substantiated can affect the physical and mental well-being of a person and the resultant effect should be considered as a potential health hazard." In other words, there may be no direct harmful medical effect on your body but the worry that there might be, the lack of clarity, will cause mental stress and if there is a mast at the bottom of your garden you will or may start to worry about it and without doing your own research as to what the potential harm is, that worry will be with you for some time. That might be addressed. It says, later on, towards the end of the conclusions: "For those base station sites, the JT (Jersey Telecom) base station sites have not been subject to any Scrutiny process from a health perspective in comparison to internationally recognised standards, as mentioned above." Again, there is an issue here. Initially when JT was States' run it started putting up its own masts and it was not subject to the same conditions from Planning as currently exist. So, they have not been inspected and, in particular, they have not been tested. So, no one has taken measurements as to - it says in here: "What levels of radiation there actually are." We know what the international standards are and we know of previous research which has talked about the levels emitted in other stations, but no one has done the work on our stations to say what levels of radiation --

**The Bailiff:**

Deputy, can I ask you to come back to the proposition.

**Deputy G.P. Southern:**

Yes, Sir. I apologise, Sir, if I appear to be going -- straying into the main debate but I will get into the conclusions and those are the things that I think are appropriate, which could be usefully considered by Scrutiny. I am on the debate. Yes, Sir, I shall endeavour to be as quick as I can.

**The Bailiff:**

I am not asking you to be ask quick as you can, I am asking you to come quickly back to the point.

**Deputy G.P. Southern:**

I believe I am still on the point. You may not appreciate it yet, Sir. So it goes on to say in the conclusions: "Currently there is little information available to the public and the government about the siting of base stations and their potential effect on the health of residence. This leads to suspicion and mistrust. [A clear issue; it is a smaller one than the wide one but one which needs addressing]. There is also a need to ensure that the current operator, JT, who has not had any scrutiny of past installations, is also required to show compliance with the guidelines." They come to the recommendations and the recommendations are absolutely germane, much more compact, which are - - and absolutely appropriate for Scrutiny to consider whether this type of remit is appropriate and can be done in a shorter timescale: "All base stations are subject to the scrutiny of Planning Implications Process to ensure compliance with internationally agreed standards. That there should be improved consultation by the network operator with the community prior to the selection of a site for a base station. Emissions from base stations must, as a minimum, meet the guidelines for public exposure. However, the State should seek to ensure that network operators voluntarily agree to comply with levels lower than international guidelines. Measurement of actual levels of radiation from base stations must be undertaken following commissioning to show compliance and be a condition of the planning permit. Mobile network operators deliver with the States of Jersey a database of information available to the public on radio base stations, and there is a cross-industry agreement to the sharing of sites and masts or radio base stations wherever possible." Now it is entirely appropriate that Scrutiny considers that much tighter remit, whether that would suffice to address the public concerns being expressed at the moment and whether they can deliver such a report in an appropriate timescale to satisfy the needs of inquiry. I think that is an entirely appropriate thing to refer to Scrutiny for its consideration and that consideration could be done by the next session, to say yes or no, we have decided that we could absolutely appropriately address this much smaller remit in order to address public concerns and would recommend that as a way forward. Perhaps that might be an outcome. So, this is not a time-wasting exercise, it is an appropriate reference to see if we can - without going to a public inquiry, which will take for ever and may never be conclusive anyway - address the tighter remit of the concerns of the Jersey public at this point in time, now, and whether Scrutiny could deliver that for you.

**Male Speaker:**

Can I raise a défaut on Deputy Troy, please, Sir?

**The Bailiff:**

Yes, I propose that the défaut on Deputy Troy be raised. Those in favour? Those against? The défaut is raised.

**Deputy C.H. Egré of St. Peter:**

Point of clarification, if I may, from the Health Minister. We have been given this document this morning. We have all realised that it is dated 12th April 2006. These are recommendations that have been put forward to him, I assume, and I would ask whether any of those recommendations have been dealt with already?

**Senator S. Syvret:**

I think this document was produced when this issue was first raised at the Assembly.

**The Bailiff:**

Senator, I am sorry, I was about to call the Deputy of Grouville.

**Senator S. Syvret:**

I was just asked a question.

**The Bailiff:**

I am sorry, you are responding to the --

**Senator S. Syvret:**

Point of clarification.

**The Bailiff:**

I do not think the Minister had spoken yet, had he? If the Minister wishes to speak he can do in due course but --

**Deputy of St. Peter:**

I am trying to get a clarification on reports that have been put in front of us by the Minister, Sir.

**Senator S. Syvret:**

I can address these issues when I speak.

**The Bailiff:**

You will deal with it when you speak, yes.

**Deputy of Grouville:**

I am quite glad that Deputy Ryan has at least had the courage this morning to accept the offer of Scrutiny, to have this issue scrutinised. To my mind it is absolutely the topic that the Scrutiny process should be looking at. We have set up these Scrutiny Panels and they have been allocated appropriate budgets or a budget and it is up to them now to get on and do the job. I would like Deputy Ryan, if he is allowed to speak again in this part of the debate, to highlight exactly how much his Committee of Inquiry is going to cost, because that obviously is an issue for this Assembly, or should be. I welcome Scrutiny's intervention in, sort of, suggesting that they look at it and I would very much hope that they would come back in a fortnight's time and confirm that each one of them is prepared to do their bit. I take on board what Deputy Southern has said; the terms of reference can be written in such a way that they address the concerns of the people of Jersey, because while none of us are scientists here we have no doubt read many, many reports that have been put in front of us. It is not just whether there is or is not a health risk but to my mind it is the perceived health risk that we should be concerned about, and certainly the people of Jersey are concerned about. We have had the police statistics for the evening economy and how we know that people feel unsafe walking in town. However, the statistics do not stack up to show that there is a risk. However, the community to my mind needs comfort and seeing a bobby on the beat, just one bobby on the beat can comfort people, and I think this Assembly should be concerned with the way the community feels, and they have concerns. I have heard what Senator Cohen has said. In his opinion there are no health risks and one's TV or radio emits far worse but I would suggest that we have a choice as to whether we turn on the electrical equipment. We do not necessarily have a choice as to if we have a phone mast placed in front of our home. So I would like to see this move on. I do not know whether we have to vote on whether it goes to Scrutiny but I would like to see this concluded and Scrutiny get on with the job that they were set up to do.

**The Bailiff:**

May I remind Members that the purpose of referring the matter to Scrutiny is to scrutinise the proposition. That is to say, whether or not there should be a Committee of Inquiry. It is not scrutinising the underlying issues.

**Senator P.F. Routier:**

I am going to try and be as focussed as I possibly can on this particular part of the proposition. Before doing that though I think I really should address the issue which Deputy Southern mentioned about the JT current base station. Members will recall that I was the president of Jersey Telecom during a time when we were probably establishing the network and I can assure Members that the base stations that have been installed around the Island do meet and are well below the international guidelines which have been followed. I do worry that there have been a couple of comments. Just now the previous speaker talked about the perceived concerns that people have and it is all about perception and people scare-mongering among the community which is causing the worry that there is among the community --

**The Bailiff:**

Senator, I am sorry to interrupt. I should probably have interrupted the Deputy of Grouville but we are not debating at the moment the substantive matter of Deputy Ryan's proposition.

**Senator P.F. Routier:**

I do recognise that, Sir, and I do apologise if I did stray a bit further but I was just picking up on the point which Deputy Southern made which needed addressing because he gave the impression that the JT masts were not within international guidelines. I will not be supporting this proposition to refer it to Scrutiny Panel. I believe that it is a time-wasting measure and I will be happy to debate the substantive proposition later.

**Senator S. Syvret:**

Just briefly on the narrow question that is in front of us at the moment. I have been in the Assembly about 15 years now and I have seen us get ourselves into these kinds of procedural messes on quite a few occasions. I am afraid this is one of those kinds of episodes that does not really cast the Assembly in a particularly good light. It seems to me that if there was legitimate issue here, and there may well be, as to whether we needed to establish a Committee of Inquiry as opposed to having the Scrutiny Panels look at it the time and manner of getting that issue addressed was for perhaps the chairman himself to put an amendment to Deputy Ryan's proposal, to alter it from a Committee of Inquiry into a reference to the Scrutiny Panels and that would have been a far simpler mechanism than the current debate we are having at the moment. I think the Scrutiny Panels have simply missed the boat in this. That should have been the procedure they adopted as soon as Deputy Ryan's proposition was lodged. They did not do that and I really do not think, frankly, that we are going to serve the issues or the public particularly well by a great deal more of this kind of confused round-the-houses debate. I think we either want a Committee of Inquiry or we do not and I think that is what we ought to focus on. I really do not think there is much point in referring it to Scrutiny now to decide whether they want to scrutinise it or it should be a Committee of Inquiry because, as I said previously, Sir, the Scrutiny Panels can in any event, if they so choose, decide they want to scrutinise the issue. They can do that anyway, so a lot of the time we are putting into this current debate is, frankly, a waste of time.

**Senator F.H. Walker:**

Senator Syvret made a very similar speech indeed to that that I was going to make, so I will not merely repeat it but can I just ask the question: "What on earth are we doing here?" If there is public concern, real or perceived, and I do not doubt that there is, what the public want from us is a decision. Is there going to be a Committee of Inquiry or not and they want that decision today, now. They do not want us to say: "Let us take it in a few weeks time, whether or not to have a Committee of Inquiry." The public want a decision from us. This is a time-wasting administrative nightmare and we should comprehensively reject it and get on with the main proposition.

**Deputy P.V.F. Le Claire:**

I am certain about what I am going to say now, after quite some time. I think that what is occurring is not at all helpful for anybody's position, whether it be the concerned individual in the street, or the concerned business that is operating, or the concerned would-be competitor, or the concerned representative in the Assembly today. I think that the only real way of addressing the issues that have been outlined - as to whether or not we should refer this to Scrutiny and whether or not Scrutiny could have a view on these matters - would be if Deputy Ryan would be to withdraw his proposition on the

grounds that in withdrawing his proposition Scrutiny would not be considering whether or not the proposition needed to be considered, but Scrutiny would be afforded the opportunity, if he withdrew it, of taking it upon themselves the issues and looking at those issues urgently, rather than having us decide yes or no on a Committee of Inquiry, which in the roundabout terms - given the evidence that we have received yesterday in respect of other matters, including economic issues, which are not involved with this proposition - is an economic factor now. So, I believe there is an issue for Scrutiny to look at these things rapidly and as the JCRA letter provided to Members by Senator Ozouf yesterday says: "Airtel would be prevented at least for a substantial period from entering the Jersey telecommunications market if a Committee of Inquiry was accepted." So, they will be delayed even more if the Committee of Inquiry has to be considered by the Scrutiny Panels. The Scrutiny Panel chairman and the Scrutiny Panel members, or some of them, may have a view that there were issues here to be examined but none of those issues can be examined properly if the Committee of Inquiry is the issue and I would put it to Members, Sir, that the Committee of Inquiry is not the issue. The Committee of Inquiry is a proposition on the issues and I believe the best way forward would be for Deputy Ryan to, with permission from the Assembly, withdraw his proposition and allow Scrutiny to come forward, if they so choose to, with the scrutiny of these issues, because otherwise we are going to be here for another 2 hours and at the end of the day - 14 hours - and at the end of the day a Committee of Inquiry will be decided upon and that will not do anybody's best interests any good. We will not address the issues because some of the issues, as I pointed out, are economic and they do not contain those terms of reference within this Committee of Inquiry. So I urge Deputy Ryan to withdraw his proposition and allow Scrutiny, in its own independent right, which he is chairman of, to look at these issues, including the economic practise.

**Deputy G.C.L. Baudains:**

Yes, what a mess we are in. If the proposition was one that Scrutiny would evaluate the risk or otherwise instead of a Committee of Inquiry I would support it, but it appears, as far as I can understand the issue, that we are going to have an inquiry into an inquiry into -- I really think we need to get a vote as soon as possible, Sir.

**Deputy of St. Martin:**

I will respond to Deputy de Faye earlier, to say he has not been aware of any concerns about the masts. I do not know where he is because I certainly have, as a Parish Deputy; I have had people on to me about them. In fact, I have got one parishioner, and the Connétable knows full well, he has a mast just at the end of his garden. It is probably no further from where I am to the flag to my right and these are the concerns people have, and what we should be doing is addressing those concerns. Unfortunately, although there have been these concerns, we have people like Deputy de Faye who feel that there are not any concerns around and I think it should be addressed and what we have waited for -- I will sit down.

**Deputy G.W.J. de Faye:**

What I would like to impress on Members like the Deputy of St. Martin, is that one way of addressing concerns of the parishioners and constituents is to reassure them that the mobile phone mast at the bottom of their garden poses no threat whatsoever. The unfortunate reality is that politicians tend to take on board issues and run the flag up on them and run them around. This simply encourages people to believe that there is a problem. I really do urge the Deputy of St. Martin that if he was to do fair by his parishioners he should give them total assurances that the mobile phone masts that are near their houses will cost them no ill effect whatsoever.

**Deputy of St. Martin:**

I am grateful to Deputy de Faye. I wish I was in the position to do so, but I am not. I am a States' Member. I am not in that position to give that assurance. What I have done, I have done a fair bit of research and, indeed, what I was pleased to see was indeed the report by the Health Protection Public Health Services --

**The Bailiff:**

Deputy --

**Deputy of St. Martin:**

We are trying to get there, Sir, but I think it is important.

**The Bailiff:**

We are debating the question of whether this debate should be suspended so that it goes to Scrutiny to report on the proposition. That is the issue before the Assembly at the moment.

**Deputy of St. Martin:**

We have a system in place now for government to take the lead. We have heard nothing at all from the States' Members until today in response to Deputy Ryan's proposition. What we have now is an opportunity to clarify the situation; get away from the concerns. There is this perception outside, out in the Parishes, indeed throughout the Island. What I would ask Members to do is to support what we are going to have. We have got a proposition before us now to refer this to the Scrutiny Panels for them to come back. I can assure you now that certainly the Health Panel, what is called the fifth panel, the Health, Social Services and the Housing Panel are coming with a clean sheet. Surely they will be in a position to do that but that would be for them to decide. What I would ask in the meantime is that we do support Deputy Duhamel's proposition.

**Deputy P.V.F. Le Claire:**

Deputy Ryan looked like he might be willing to move to accept my recommendation, Sir. Is he willing to do so?

**The Bailiff:**

Well, the Assembly has to decide on Deputy Duhamel's proposition first.

**Deputy A.J.H. Maclean of St. Helier:**

I will be very brief. I was just going to suggest that we move directly towards a vote on this. It seems to have been going on for some time and I do not know if I can invoke the guillotine on this.

**The Bailiff:**

I think the Standing Orders now require you to give half and hour's notice of your intention to move -  
-

**Deputy A.J.H. Maclean:**

In that case, Sir, it is a bit pointless.

**Senator W. Kinnard:**

I was just going to suggest that I think we are getting deeper and deeper into a quagmire and I do not think that people are getting any clarity. I am going to suggest, Sir, that perhaps it might be a good idea if we were to break early for lunch, get the various protagonists together so we have some clear direction as to what we are going forward with, because I am not clear that anybody in this room knows which way we ought to be going now, after this very muddled debate and I think quite frankly it is an embarrassing spectacle and I would rather have it off piste.

**Deputy C.J. Scott Warren:**

Could I ask for some clarification, this is linked with what we are supposed to be voting on now. Would Deputy Ryan be allowed to change the words: "Committee of Inquiry" to: "A Scrutiny Panel"? If this is rejected will it mean he cannot have a Scrutiny Panel if his proposition is successful?

**The Bailiff:**

No. It is too late to change the proposition.

**Deputy G.C.L. Baudains:**

May I make a proposition that we move on to the next item, Sir.

**The Bailiff:**

I have a proposition from Deputy Baudains, I am not clear if it is a serious proposition. Is it a serious proposition? I think I was about to call upon Deputy Duhamel to reply then the Assembly can vote on the matter.

**Deputy G.C.L. Baudains:**

In that case I withdraw, Sir. It seemed to me we were just going on for ever around and around in circles.

**The Bailiff:**

I hope not, Deputy, no.

**Deputy P.V.F. Le Claire:**

On a point of order, Sir. Although you have just ruled that we have to decide upon Deputy Duhamel's proposition, surely if Deputy Ryan was to indicate that he would be willing to withdraw his proposition, likewise Deputy Duhamel could withdraw his and we could all move forward, Sir.

**Deputy P.J.D. Ryan:**

Sir, may I seek some clarification from the chair? It seems to me that I hold the key to maybe drawing this, perhaps, I do not know, but let me ask for clarification. Am I right in thinking that if the Assembly votes in favour of Deputy Duhamel's proposal to refer this to Scrutiny, that the relevant Scrutiny chairman would have to decide on, as it stands at the moment, whether or not a Committee of Inquiry was suitable? That is point one. If at that point, as you have already confirmed, the Scrutiny Panels would have to look to some degree into the substantive issues that lie beneath this - and they would presumably make a decision on that basis - am I right in thinking that with the Assembly's approval therefore, the process at that point would be for me to withdraw my proposition to allow the Scrutiny Panels to continue? Is that the situation?

**The Bailiff:**

No. This is a new procedure, and Members may be forgiven for being uncertain as to what it means. It is a new procedure which allows a proposition to be interrupted during the debate in order that the Scrutiny Panels may look at the proposition and hopefully enhance the debate on the proposition by giving their views at a later stage. The question for Members is quite simple, should the debate be suspended and should the Scrutiny Panel chairmen be invited to consider whether they wish to scrutinise the proposition, or whether or not a Committee of Inquiry should be established.

**Senator S. Syvret:**

Sir, could I just offer some advice to the Assembly. This has now descended into I think probably the most embarrassing procedural fiasco I have ever witnessed in 15 years and I really do think the best thing to do would just be to move to a vote on this particular proposition without further prevarication. Frankly, it has taken an awful lot to make me move my opinion on this but I am starting to think I might start supporting guillotine. **[Laughter]**

**The Bailiff:**

Well, I call upon Deputy Duhamel to reply.

**Deputy R.C. Duhamel:**

When the States in their wisdom, set up Standing Orders, it was with the interest of the public in mind that we should arrive for debates with an ability to debate things with all the information at our fingertips. We have had various, in my view, unhelpful comments that this is a procedural device, that it is devious - which was unparliamentary - or mischievous or whatever, which was to the same effect, but clearly it is not. There were also suggestions, perhaps not voiced but implied, that this was the president of the Chairmen's Committee acting alone. The proposition from Deputy Ryan was lodged in this House on 2nd November. On 13th November, which was the first available opportunity for the Chairmen's Committee to meet - and I remind Members that the Chairmen's Committee is a group of chairmen of the individual panels and that we do sit to decide whether or not

there are items across the interest of the individual panels for which they have been set up, and if there are overlaps or if there are any issues that need to be addressed by more than one panel how they should be best assessed. On the meeting of 13th November, as we heard from Deputy Le Hérissier, we did discuss the issue as to whether or not there was merit in Deputy Ryan's proposition for going ahead with a Committee of Inquiry, or indeed whether or not there were other implications and suggestions, as was suggested and outlined by Deputy Southern, that there were perhaps better ways of dealing with this particular issue, bearing in mind that there is a substantial public interest in it, which may or may not be misplaced, but that is part of the reason for calling for an inquiry, or indeed Scrutiny to address those issues. We took the consensus view that it would be better to invoke Standing Order 79 to suspend the debate and to ask, in particular, the new panel chairman - and we were not aware of who it was going to be - whether or not the new panel should have the opportunity of looking into the health interests or effects, or whatever, of this particular issue. This House has now decided that the new chair of the Health, Social Security and Housing Panel is Deputy Breckon. In a fortnight's time we are going to populate his new panel with Members from this House and indeed he has already made a few decisions as to whether or not he thinks it is advisable for some issues that are up for discussion to be referred to his panel. This is where, Sir, I think this is an issue which has to be addressed. The House must not confuse itself and although we have had comments, notably from Deputy Le Hérissier, that it would be wrong to tie the hands of 3 particular panels, this House is not doing that. Standing Order 79 states, and I have to repeat it in part, Sir: "That if the House so wishes there is an opportunity for a panel or panels to come forward" as indeed you referred to, Sir, in your comments before I stood up; to supply the House with useful, pertinent information in order to achieve one of the reasons that Scrutiny Panels were set up in the very beginning - to try to add value to any decisions that are going to be taken either in this House or independently. It is with that in mind, Sir, that I am doing my duty if you like, and I have asked for the House to consider the suspension of this debate in order to give the opportunity to those 3 panels who do have an interest, as mentioned by the comments from the Council of Ministers, to determine whether or not they think that there is an opportunity for them to contribute towards the decision that will be taken at a slightly later stage. It may only be delayed by 2 weeks, it may be delayed by 4 weeks, we do not know as yet. We have to wait, if we go ahead and decide that this is the way we want to act, until the 3 panel chairs come back and indicate not only whether they do have an intention to look at the particular issues which their panels involve, but the terms of reference that they would wish to look at those issues with. I think that Scrutiny is good government, it is hugely useful to government and some of the disparaging remarks such as: "Using Scrutiny to shuffle things under the carpet" or: "Bobbing up and down with procedural delaying tactics", quite clearly, Sir, those remarks should not be made in the Chamber because we are not proposing anything more than giving the Scrutiny Panels an opportunity in a fortnight's time to come forward and decide whether or not they think that a Committee of Inquiry, based on the comments from the Council of Ministers, is justified. Whether or not the information or the grounds for rejecting or agreeing with the Committee of Inquiry are sufficient, and whether or not there are items of information that this House really needs to have in its hands before it can adequately discharge the central issue. I make the proposition, Sir, and I ask for the appel.

#### **The Bailiff:**

Very well. I ask any Member in the precincts to return to his or her seat if he or she wishes to vote. I remind Members that they are voting on the proposition of Deputy Duhamel that the debate on the proposition of Deputy Ryan be suspended, and that the relevant Scrutiny Panels, and there are 3 of them, consider having the proposition referred to them. I ask the Greffier to open the voting. If all Members who wish to vote have done so, I shall ask the Greffier to close the poll and I can announce that the proposition of Deputy Duhamel has been lost, 15 votes were cast in favour, 31 votes against and there was one abstention.

#### **Senator S. Syvret:**

Before proposing the adjournment could I just ask whether Deputy Ryan is still possibly prepared to think about withdrawing this proposition, in the knowledge that the Scrutiny Panels can look at the whole subject if they wish to, in any event?

**Deputy P.J.D. Ryan:**

Rather than withdraw it, Sir, is it possible to retime this debate to continue at a later date?

**The Bailiff:**

No. Why?

**Deputy P.J.D. Ryan:**

Because I am not sure that the Scrutiny Panels are indeed going to take it on. I have no way of knowing that.

**The Bailiff:**

I think the answer is no.

**Senator S. Syvret:**

Is it not procedurally the case that if the Deputy has given leave to the Assembly to withdraw his proposition now if action is not taken by the Scrutiny Panels to his satisfaction he would be at liberty to re-lodge and bring it back at a future date?

**The Bailiff:**

That, of course, is perfectly true but the Deputy is perfectly entitled to seek a decision on his proposition if he wishes to have one.

**Senator S. Syvret:**

Indeed he is, Sir, nobody is disputing that but the fact is he could withdraw the proposition now, see what Scrutiny do and if he is unsatisfied, bring it back in the future.

**The Bailiff:**

Senator Syvret is quite right, I am not putting any pressure on you in the slightest. Any Member has the right to have his proposition taken to its proper conclusion and to have a vote upon it but the procedural position is that if you have the leave of the Assembly to withdraw your proposition, it would then be open to the Scrutiny Panels, off their own bats, to consider the matter and to act accordingly and if they did not, you would be at liberty to come back with a further proposition in the New Year. Do you wish to consider it over the adjournment?

**Deputy P.J.D. Ryan:**

May I, please?

**Senator L. Norman:**

Sir, at the risk of being accused of using the procedural device, it is quite clear that the proposer of this proposition is unsure as to whether it would be wise to continue with this debate at this stage but he clearly is unwilling to withdraw it for obvious reasons, as this is a matter of some importance to him. I would like to suggest, Sir, that you would allow us, and if it was seconded then I propose that we move on to the next item of business. This would mean that the proposition does not fall, the proposition is still on the table and can be brought back to the States at a time convenient to the Deputy, when he is clearer in his mind. I would just like to test the feeling of the House before I make that proposition to you, Sir.

**The Bailiff:**

Before you make the proposition, may I recommend to Members that we now adjourn so that these matters can be considered over the adjournment and if you wish, Senator, to move your proposition in due course you may do so.

**Deputy P.N. Troy of St. Brelade:**

Could I not ask that the Scrutiny Committees give this some consideration over the lunch hour, Sir [Laughter] and perhaps come back to the Assembly with maybe something a little bit more concrete at the beginning of the session.

## **LUNCHTIME ADJOURNMENT PROPOSED**

**Senator S. Syvret:**

I am happy to propose the adjournment. Yes, I will just leave it at that.

**The Bailiff:**

Members agree to adjourn until 2.15 p.m.

## **LUNCHTIME ADJOURNMENT**

### **PUBLIC BUSINESS (Continued)**

#### **7. Committee of Inquiry: Mobile Telecommunications (P.144/2006) (continued)**

**The Bailiff:**

Now the debate continues on the proposition of Deputy Ryan and I call Deputy Breckon.

**Deputy A. Breckon:**

I rise as chairman of the panel that we had the election for yesterday and, as a result of being the only Member at the moment, the consultation process is very effective at the moment. **[Laughter]** But just over 24 hours ago I was not the chairman, and 24 hours before that I did not attend the Chairman's Panel that was held as well. So, I have come to this with probably 2 hands behind my back but as somebody said: "We are where we are." People have talked about the instruments radiating stress, I think I may be able to do some of that myself, Sir, with some of the conversations that have been going on in the corridors but at the moment, Sir, I should say this is part of the advertisement, I am seeking panel members and perhaps, and I say perhaps, I did make an appeal to Members and perhaps positions on this panel are starting to look less attractive as I speak. Time will tell. As the ink was drying yesterday, Sir, on the ballot papers, Deputy Ryan was actively seeking me out when the result was announced. He was particularly kind, he did say: "Perhaps we should have a chat" and he even made me a cup of tea, Sir. So, that was all rather nice and I thought: "Hm, this is interesting, it is very nice being the chairman of a panel" and they say there is no such thing as a free lunch, and in the case of Scrutiny it is a free cup of tea I would assume. Anyway, also last night, Sir, following the adjournment a number of people did meet and there was a certain bonding, should I say, of chairman familiarity and perhaps a little arm wrestling indeed. As a result of that, Sir, I find myself between a rock and a hard place in that if I accept this as being with the House's agreement referred to, this Scrutiny Panel as being the lead, then it is subject to other things and the other things, Sir, would be the agreement of the panel when it is formed, which will be in 13 day's time. Also to terms of reference, because others have indicated that there might be other things that perhaps could come into the equation. The agreement of the Chairmen's Committee, I would think that would be a possibility, bearing in mind the views that have been expressed earlier today, and also the funding. With that, Sir, if I gave that assurance to the House that I would pursue that along those lines and accept that the Scrutiny Panel take lead responsibility for that, and with that, Sir, if I could ask if Deputy Ryan, with that assurance, would withdraw his proposition and for that, Sir, I would recommend that he indeed did chair the sub-panel as a reward for his endeavour **[Laughter]** in bringing this to the House. If he would care to respond to that, Sir, I would hope that the House could agree to that and we can move on positively. I am not sure exactly with the planning issues but it then removes some of the time factors that would have been suggested by the reference of Deputy Duhamel. I would not wish to frustrate anybody who was seeking planning permission but there would be some time involved but it does take perhaps some heat off the situation.

**The Bailiff:**

May I just be clear, your Scrutiny Panel, speaking unanimously at this stage, Deputy, is willing to take on the task in principle of scrutinising this particular issue and you are inviting Deputy Ryan on that basis, to withdraw his proposition?

**Deputy A. Breckon:**

To the provisos that I made, Sir. Other people have to make decisions to make that happen.

**Senator F.E. Cohen:**

Sir, could I have clarification on where that would leave me because I am in the very difficult position

of having to continue making decisions.

**The Bailiff:**

The effect of that, it seems to me, is quite clear and that is that there is no moratorium. The effect of that is that the Scrutiny Panel conducts its scrutiny but there is no moratorium and the Minister for Planning and Environment has a legal duty to consider matters in accordance with his legal duty.

**Deputy G.W.J. de Faye:**

Sir, do you mind if I just raise a point of order in the sense of clarifying where we are? Are we at this stage debating now the substantive motion, or are we debating whether Deputy Ryan is in a position to withdraw his proposition or not?

**The Bailiff:**

You have pre-empted me, Deputy. I was just looking at Deputy Ryan to ask him whether he was willing to respond to the invitation of Deputy Breckon to seek the leave of the Assembly to withdraw his proposition. Deputy Ryan.

**Deputy P.J.D. Ryan:**

I am aware and I am grateful to Deputy Breckon, and I am aware that it was not necessarily on his agenda to carry out this review, it is early days for him. Sometimes though the public's need overrides that and things take over, as I am sure Members might remember in my own case from earlier on in the year with the amendments to the Sexual Offences Act which I had to take on very quickly. I have also received over the lunch hour some assurances from the Minister along the lines that, as you say, Sir, there is no legal obligation for there to be a moratorium but I have received certain assurances that some commonsense in the short interim period will be applied, let us just leave it there. I think that is enough of an assurance for me and on that basis, Sir, with the leave of the Assembly, I am prepared to withdraw my proposition.

**The Bailiff:**

Is the Assembly prepared to give its leave to Deputy Ryan to withdraw this proposition? **[Laughter]**

**Deputy G.W.J. de Faye:**

Could I debate that, Sir? I believe that we should decide this issue today one way or the other. It seems to me there is very little difference between deciding to have a Committee of Inquiry or deciding to have Scrutiny of a subject, it is all much of the same thing. What really concerns me is in fact what is going on in Scrutiny. We have had an extraordinary spectacle this morning. I understand that there was a meeting of the chairmen of Scrutiny Panels on 13th November, there was another meeting of the same personnel this Monday and why on earth - because those meetings included, I can only assume, Deputy Ryan and Deputy Duhamel - why on earth was Deputy Ryan not persuaded to withdraw his motion earlier? And why was it left for the chairman of the Chairmen's Panel to institute a procedural motion on the day of the debate? I have to ask, what exactly is going on here because this seems to be a very, very extraordinary way of conducting so called Scrutiny and, by goodness, ministerial government has come in for an awful lot of stick since it began but right now I really firmly believe the spotlight should be turned on what the Scrutiny side is doing. I have to say to the House quite bluntly that I think there is a subtext operating here. I cannot put my finger on what exactly it is all about but I would hazard a guess that this has something to do with Jersey Telecom; the potential for its sell off and the opportunity to instigate various delaying tactics to that process. Now, I do not ask Members to believe me, I do not suggest that that is the truth.

**The Bailiff:**

Deputy, I am sorry to interrupt you and I know there are things you wish to get off your chest, but may I remind you that the Assembly is considering at the moment whether Deputy Ryan should be given leave to withdraw his proposition. I want you to consider whether you really wish to open up a new debate on that issue. It is entirely a matter for Members of course but I already see red lights flashing.

**Deputy G.W.J. de Faye:**

Forgive me but I think this is part of the issue and I think that the question of withdrawing at this stage appears to be all part of some strange procedure just to postpone matters. I am simply saying to the House there is no need to postpone this issue; either we are going to have a Committee of Inquiry or we are not going to have a Committee of Inquiry. If there is a huge public concern out here it is whether this House is capable of taking sensible decisions and we should be able to take sensible decisions, we should take this decision today.

**Deputy J.A. Martin:**

I think it is more of a point of clarification on whether I support Deputy Ryan fully in this proposition. You, Sir, directed the Planning Minister that under the law he would have to carry on his planning duties as the law states. I fully accept that but there was inference from Deputy Ryan that there has been some cosy chat across the lunch hour that there will be some sort of commonsense, I quote, approach, Sir, as to outstanding applications. Now I think that is even a worse position than we are in now. Whether or not this debate goes ahead, I have not made my mind up which way I will go, but I want to know what this commonsense cosy chat with Deputy Ryan has taken place, and where or does he - and I presume he will have to - proceed with his ministerial duties under the law and I would just like this clarified so everyone knows what proposition they are pulling and where the planning permission stands.

**Senator P.F.C. Ozouf:**

Sir, point of order, just because I am unclear, are you inviting the Assembly to vote on whether or not Deputy Ryan should have leave to withdraw his proposition or are you inviting, I am not exactly sure, could you explain?

**The Bailiff:**

Yes. Ordinarily speaking Members are only too willing to allow a Member to withdraw **[Laughter]** a proposition and one does not need to put the matter formally to the vote but technically this is a proposition from Deputy Ryan seeking the leave of the Assembly to withdraw his proposition. So, it will be put to the vote if Members wish.

**Senator F.E. Cohen:**

Sir, I am in a very difficult, very unclear position. A large number of Islanders are concerned about health issues in relation to masts. I, as you know, believe that they are not justified in those concerns but I do not think my stand on this is going to convince them. The purpose of today's debate was to end up in a position where the House agreed some mechanism by which Islanders would feel that their concerns had a fair and independent hearing, and from all the discussions I have heard we seem to be far from that. I understand that my obligations as Planning Minister are to carry out and to determine applications within a reasonable time period. Within that context, a couple of weeks either way will not make too much difference, and I would like to know from the Chairman of the Scrutiny Panel just how long he thinks he is going to take to complete his work, so that I would be able to determine whether it is possible to delay applications for a few weeks. That would mean that applications would continue to be processed but I would pile them up waiting to determine them but I can only do that if it is just a few weeks. Otherwise I have to determine based on the information I have at the moment and that very clearly is that there is not any risk.

**Deputy G.P. Southern:**

I too share the reservations of Deputy Martin about ending up in a least clear position possible, and without wanting to pre-empt the words of the chair of the Social Affairs Committee Panel behind me, I can assure him that any inquiry worth its salt will take more than a few weeks, more than a couple of weeks. To do anything halfway decent which would allay fears takes much longer than that, so I believe I am minded not to give permission to the Member to withdraw his proposition. I think the best clarity is to pursue this to its, if necessary, bitter end and decide it is either a Committee of Inquiry or it is not. That way at least we will have clarity, and the key thing in there is I think, part (b) of this proposition, which says: "To suspend consideration". Key to the whole thing about inquiry, in whatever shape or form, is suspension of the activity that is being inquired into, and we can only get

that or not get that by going to the vote. So I would vote against the withdrawal of this proposition. Let us pursue it to the end and let us vote on it and let us be clear where we are going.

**Deputy G.C.L. Baudains:**

In fact, I am minded to support the previous speaker's position. I am considering the fact that the proliferation of masts is most probably a consequence of competition that we may not have foreseen, and I would like to think that the Scrutiny Panel would look at all the items in the proposition. I do not know that they are going to do that, because I have not seen the terms of reference, but part (b) of course is the request would fall were we to allow this proposition to be withdrawn. The whole episode to me has been completely untidy. I would have preferred that Scrutiny might have come forward earlier though I understand there are reasons why it probably would have found that difficult to do. So, as Deputy Breckon has said, he is between a rock and a hard place, so are other Members in this House as to which is the best way to proceed. I would prefer personally a Scrutiny Panel to look at this but then I see there are substantial disadvantages to not proceeding with the Committee of Inquiry. At the moment I am minded to disallow Deputy Ryan to withdraw it.

**The Bailiff**

May I just say, from the chair, procedurally where I think the Assembly is at the moment. The Assembly has rejected the proposition of Deputy Duhamel that Scrutiny should be involved in the sense of Standing Order 70 or 72. What has been put to the Assembly at the moment is a proposition from Deputy Ryan that he will withdraw his proposal for the appointment of a Committee of Inquiry, on the basis of the undertaking from the chairman of the new Scrutiny Panel that, subject to the views of others yet to be appointed, he will conduct an inquiry into the underlying matters which would otherwise be the subject of inquiry by a Committee of Inquiry. Now, if Members agree to allow Deputy Ryan to withdraw his proposition it is absolutely clear that the status quo continues. That is to say, the Minister for Planning and Environment is under a legal duty to consider and reach decisions on applications which are pending. Now what is important for Members to understand, I think, is that even if a Committee of Inquiry is established the legal duty of the Minister for Planning and Environment remains exactly the same. The opposition to establish a Committee of Inquiry is one which includes a request to the Minister for Planning, and the Minister can take that request into account but he is still bound by his legal duty, and if Members think that it would be open to the Minister to put all these on one side for 6 months, I am afraid that Members are under a misapprehension.

**Deputy A.J.H. Maclean:**

Sir, clarification if I may, please. I understood that the Minister issued a moratorium himself in terms of determining some of these applications in the past and I just wondered if he could perhaps clarify whether that could be done again.

**Senator F.E. Cohen:**

Sir, my moratorium, which I introduced because of public concern, has now expired or is just about to expire. I think we need to know where we are going and I think Sir has made it very clear that I have an obligation to determine applications within a reasonable time scale. Now clearly I can take into account the wishes of the House but I still have my primary obligation. I think that just to issue another moratorium for no purpose would achieve nothing. I would like to hear how long the chairman of the Scrutiny Panel proposes it would take to complete a study. I find it very difficult to understand quite what is going to be studied, this work has been done internationally by thousands of scientists with budgets of hundred of millions of pounds. I just do not understand what we are going to study. Perhaps we could be enlightened on that.

**Senator P.F.C. Ozouf:**

Sir, when I got up this morning I occasionally look in my tie cupboard and I try and find a tie that is appropriate [**Laughter**] and I put on this morning my flying saucer tie, Sir. My flying saucer tie because I had looked up on the internet at some of the issues of telephone matters and I thought that it was the same sort of internet quackery that is in relation to flying saucers. But I have sat here through the last couple of hours before lunch and thought: "What would a Martian come down have thought

of the way we have behaved this morning?" Because it has been an absolute disgrace and we have made fools of ourselves. Moreover, if I may say, Scrutiny Panels are making fools of themselves too in my opinion. I am sorry if that is strong but I do not agree with everything Deputy de Faye said that they are. Frankly, if a Scrutiny Panel wants to review this then let them review it; and let them go and bring all the people that they want to, to come in here before them, and they are doing that in lots of different areas. We have had one Scrutiny Panel that has not even issued a report, and we have been having a Scrutiny Panel for one year, and they have not issued a report. If they want to carry on and scrutinise and call to evidence and do whatever they want let them get on with it, but the fact is, is that we should - in fact the matter before this Assembly - and what there should have been is proper fact and information. The Planning and Environment Minister gave an excellent address this morning. The Assembly has been benefited by, I think, a very comprehensive set of information on which they can and the public should have confidence that the Planning Minister knows what he is doing in the issuing of licences. Frankly, I am going to go forward with the -- and I did not think that it is appropriate that there should be comments from some aspects of the Assembly, Sir. Frankly, Deputy Ryan has asked leave of the Assembly to withdraw his proposition. Scrutiny are now getting on apparently and going to review these matters, well, let them get on with it. Let Deputy Ryan withdraw his proposition, let Scrutiny get on with whatever they are going to do, which is what they have been doing some of them for the last few months without necessarily many results, and let the Planning Minister have good science, good information and good back up in order to make his decision. I will support the withdrawal and let Scrutiny Panel get on with it.

**Deputy P.N. Troy:**

Sir, I must object to some of what Senator Ozouf said and also to Deputy de Faye. I do not think that Scrutiny have made a total mess of it, they have responded to the fact that Deputy Ryan has brought in a proposition, and they have reacted to the way the debate has unfolded. Every Member is entitled to have his proposition debated and anyone who says otherwise is clearly incorrect. He is entitled to withdraw it but he is withdrawing it, Senator Ozouf, after there has been considerable debate and discussion around the whole issue. I think it is vitally important that Members are allowed to bring forward propositions and have them debated and that Scrutiny is able to react to it. I think the comments that were made earlier about Scrutiny were totally unjustified. If Deputy Ryan withdraws this proposition he is undoubtedly improving the situation. We now have an assurance that Scrutiny will look at the total issue and it will not just be that the issue should be the subject of a public inquiry, it will be of the total issue, all the underlying issues, and I think that is a major change to what we were discussing earlier this morning. I would also like to say that when Scrutiny do look at this, we have a lot of information and everything that is quoted is UK statistics, UK research. I would like to put forward that all of the equipment in Jersey should be tested so that Jersey Telecom, which has some equipment which may be out of date, which may not be up to standard, should be tested and that should possibly be part of this process because residents in Jersey are concerned that the equipment that is at the bottom of their garden does not meet the UK standard, and until the equipment in Jersey is tested, no one knows. So, do not quote UK statistics to us without coming back to a full and proper review of the equipment that is out there at present.

**Senator F.H. Walker:**

Sir, I have to say, I think this is one of the very worst debates I have heard in this House in the whole of the 16 years I have been in the States. What anyone listening will make of our inability to take a decision I just cannot imagine. Hopefully or thankfully there are no television cameras in the Chamber. What anyone listening will make of this debate I just cannot imagine. Sir, if I could just pick up on one point. The last speaker, Deputy Troy, he said: "All masts should be tested." It is there in black and white, it is there in the health report that not only do the new masts have to meet the rigorous health testing procedures but so do all existing masts. It is all there it is all being done. Sir, here we now have an opportunity for Scrutiny to do the job it was appointed to do, and for heaven's sake that is what it always should have been doing. Let us now grasp this opportunity, let us show that we can restore something of what I am sure is our shattered reputation today and take a decision and give Scrutiny the right, as Deputy Troy said, to explore the whole issue. Let us support Deputy Ryan in withdrawing his proposition and let Scrutiny get on to do the job they are there to do. Let

them do it we have that opportunity. You have ruled, Sir, it makes no difference to the Planning Minister's legal obligations whether it is a Committee of Inquiry or a Scrutiny Panel. We need to bear that very firmly in mind, take a decision, and get on with the work because the Island demands knowledge, the Island demands a decision. We have this opportunity now to give them that, let us, for goodness sake, stop all this prevaricating, going around in circles, and take a decision.

**Deputy P.N. Troy:**

For clarification, Sir, there is no evidence that I have seen that says that Jersey Telecom has tested all of this equipment and produced a report. No, the Chief Minister said that in the report that all of the equipment must meet those standards but as far as I am aware there is nothing that shows that they are meeting those standards.

**Constable T.J. du Feu of St. Peter:**

Sir, I was getting very encouraged a few moments ago, **[Laughter]** I thought at long last a number of Members were coming to their senses but regrettably I just tend to feel a little mood swing or shift in that sort of idea. We have, I believe, a positive way forward. We have 2 people of the standing of Deputy Ryan and Senator Cohen who will, on their admittance, clearly work with commonsense and in the best interests of this House and indeed, more importantly, outside of this House out in the Island. They will do so. We know that from their previous experiences in what they have tackled. Please, can we get on with it and stop wasting time because you are absolutely wasting -- all the Members in here are the first to moan about the time that it takes on certain issues and if ever there is any one that is the pot calling the kettle black, my word, that is it. For goodness sake, can we please go to the vote, if it needs a vote on this, Sir, and following your wise counsel earlier on I see that this is the quickest and the most sensible way forward. Leave Deputy Ryan to confer with his committee and leave that conferring also to include Senator Cohen, which undoubtedly it will, and everybody will be far better served and we will have an answer far quicker than dilly dallying around and wasting everyone's time.

**Senator B.E. Shenton:**

Sir, I would just like to start by saying that I would be happy to sit on any sub-panel that may be called by Deputy Breckon. I feel that this Chamber, all of us including me, have acted in a disgraceful manner today. We have wasted time and I do not think you can lay the blame just at Scrutiny, I think the Council of Ministers are just as much to blame. They could have easily approached and spoken to Deputy Ryan beforehand and there are Members of the Council of Ministers that treat this whole subject as some great joke. The thought of people getting ill from radio masts was described to me as witchcraft by Senator Ozouf who turned up in his flying saucers tie. May I remind him that he is turning up to a States Assembly not kindergarten. I brought this matter up originally because I was contacted by some very, very concerned people. One pair of parents had children with very low immune systems where a mast was being put right outside their house. This is a serious matter, it is not a laughing matter, and we are wasting time with procedures and fussing around instead of getting to the point. I must say that I have felt that this whole discussion would have benefited from quite, to be honest with you, stronger direction from the Chair. We have been going around in circles all day and it is all right for people to moan and laugh and so on and so forth but this House has done itself a disservice today. There are people out there that are worried, it is not a laughing matter. I will help out on Scrutiny if it is needed but I ask Deputy Ryan to withdraw his proposition, put it to the vote and let us get on and do some proper work.

**Senator F.E. Cohen:**

Point of clarification, Sir, and I do value the advice of the Chair. The position under Deputy Ryan's proposition would be that the States would request that there be a moratorium of 6 months. That means that I have a clear States' direction that the States wishes, should it be approved, that there be a moratorium and I can, as I understand it, take that into account in my determination. If we just proceed with the Scrutiny proposition there is absolutely no direction from the House whatsoever and I have nothing that I can take into account in my determination, which would mean that I would have to immediately determine applications that are piled up ready for determination. Is that correct, Sir?

**The Bailiff:**

I do not think it is for the Chair to give the Minister for Planning and Environment legal advice on what the Minister's duties are, I think that is a matter on which you really need to seek the advice of the law officers at the appropriate time.

**Senator M.E. Vibert:**

Sir, very briefly, I have listened and my thoughts have swayed one way and the other about allowing Deputy Ryan to withdraw or not to withdraw. We have been on this a long time. I think the clearest direction the States could give would be to finish the debate on the substantive proposition and say one way or the other whether they want an inquiry and a moratorium, or not.

**Senator S. Syvret:**

Sir, my understanding of the situation is, is that the status quo will prevail in respect of the requirements on the Planning Minister, from a legal point of view. I listened with interest to what Senator Shenton did and it is a strange thing for me to say and rise in defence of the chair of the Assembly, but I really cannot agree with his claim that what we have seen here, what has unfolded today, was because of a lack of direction from the Chair. What we have seen today is a substantial number of Members, no doubt well intentioned, but I am afraid acting in complete ignorance it would appear of the Standing Orders of this Assembly and the procedures that we should be adopting. This should have been a perfectly simple question but we have managed, I am afraid, to make a complete mess of it. Now, we set up a Scrutiny system to scrutinise issues. The public are concerned about the telephony issue, the relevant Scrutiny Panel should scrutinise it. Yes, we still have the powers to establish committees of inquiry under the States of Jersey Law but surely, only in the most extreme and particularly unique and difficult of circumstances. This issue of telephony is a matter for the Health Scrutiny Panel, the Environment Scrutiny Panel and whichever other Scrutiny Panel wants to get involved in it. They could frankly have begun this work months ago, as soon as public concerns began to be expressed about it and the fact that they did not, I am afraid, is a lacuna in their observance of the situation. Scrutiny has to learn that they cannot just be reactionary to whatever tide of public concern happens to be flowing but they have to exhibit some foresight and look into these issues themselves. I think Deputy Ryan has done absolutely the right thing by expressing a willingness to have his proposition withdrawn, and he has asked leave of the Assembly to do that, and I really do think we should just do that now and let the Scrutiny Panels scrutinise the issue on behalf of the public.

**Deputy C.J. Scott Warren:**

We still seem to be deep in muddy waters. However, I do believe that public concern regarding this matter does need to be addressed. I did see this report and I did a television interview somewhere around April as Assistant Minister for Health where I did assure the public, much to the annoyance of the television reporter, that I did not consider there was any justification for their fears. But if the public see this report, which there is a part of it, halfway through under background, second paragraph, they are going to be slightly concerned purely because it says: "The expert group went on to conclude that it is not possible at present to say that exposure to RF radiation even at levels below national guidelines is totally without potentially adverse health effects and that the gaps in knowledge are sufficient to justify a precautionary approach." And I think the precautionary approach is, there, the key factor. If all the concerns are totally unjustified and, as I say, that may well be the case, that was certainly what I believed from what I had been told. If that is the case it will not take long for a Committee of Inquiry or the Scrutiny Panel to come to that conclusion. I personally, and I believe Members of this House, would have liked planning consents to have had a short stay of execution while this, if it is going to be the Scrutiny Panel, make this decision but I understand that may not be possible but certainly I do feel that it is worth being looked at the issues if only to reassure because the public are concerned.

**The Bailiff:**

Deputy Ryan, do you wish to reply to those matters raised in relation to your request to withdraw?

**Deputy P.J.D. Ryan:**

I do not think I really do, Sir, I think Members have to come to the conclusion as to whether they are happy for me to withdraw this or whether they are so unhappy, and the House is so deeply divided over this, that they really do seek a vote at this stage. Personally, I do not think the House really does. I think there is a considerable amount of work to do in a very short space of time. If I am to chair that sub-panel, although I have offered my services on reflection it may not be that I am appropriate for that position, that is fine, but I am happy to do it if Deputy Breckon and his panel feel that they want me to do it and that is as far as I can go, Sir. I have done my best all around. I can do no more.

**The Bailiff:**

An electronic vote? I ask any Member who wishes to vote to return to the Chamber and the vote is for or against the request of Deputy Ryan to withdraw his proposition. I ask the Greffier to open the voting. If all Members who wish to vote have done so, I will ask the Greffier to close the poll and I can announce that the Assembly has agreed to allow Deputy Ryan to withdraw his proposition, 36 votes were cast in favour, 9 votes against.

**The Greffier of the States:**

The following Members voted contre, Senators Routier, Vibert, Cohen and Perchard and Deputies Huet, Baudains, Martin, Southern and de Faye.