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SECOND SESSION - 42ND SITTING - THIRD MEETING

Thursday, 25 May 2023

Parliament met at 10.07 a.m. in Parliament House, Kampala.

PRAYERS

(The Deputy Speaker, Mr Thomas Tayebwa, in the Chair.)

The House was called to order.

COMMUNICATION FROM THE CHAIR

THE DEPUTY SPEAKER: Honourable colleagues, we shall handle matters of national importance in the afternoon when the Prime Minister comes. For now, let us go to the next item.

PRESENTATION OF A PETITION BY UGANDA WOMEN PARLIAMENTARIANS ASSOCIATION ON ESCALATING CASES OF MATERNAL MORTALITY

10.09

MS SARAH OPENDI (NRM, Woman Representative, Tororo): Mr Speaker, I thank you for putting this item on the Order Paper. I did present this petition in this House in 2022 - like I said, I think it was on 28 February 2022, just before Women's Day.

In the wisdom of the Presiding Officer, she submitted this petition to the minister to respond. The minister responded after about eight months and the matter was referred to the committee.

I expect the committee report to be ready, but aware that it is taking forever for committees to process very important items like this, if it pleases you, I would still present the petition, which I presented, so that this House can discuss the merits, my prayers and take a decision on that matter.

I actually thought that the committee chairperson would be here with his report but I do not see him. It is quite unfortunate that with all the investments that Government has put into the health sector, ensuring that at least about 80 per cent of the subcounties have health centres III, where mothers can move with ease and deliver to attain maternal health care services, we still lose approximately 16 mothers every day at the facility level.

According to the Uganda Demographic and Health Survey, 2016, 336 maternal deaths per 100,000 live births -

THE DEPUTY SPEAKER: ICT, can you get a copy of the petition and display it on the screen? Thank you. Do we have any member of the Committee on Health present? Dr Ruyonga, have you handled the petition? Can you give us an update before Hon. Sarah continues? Do you have any updates in regard to this petition?

DR RUYONGA: Thank you, Mr Speaker. I do not have an update on the petition; maybe, I can ask the committee chairperson.

THE DEPUTY SPEAKER: The committee was supposed to handle the petition within

the limits of the prayers set by the Member. We cannot frustrate a Member presenting a petition. *(Applause)* So, I am going to invoke my powers and we directly process the petition here. When we adopt the prayers or we refuse them, then action will be taken based on that.

Hon. Sarah Opendi, please, proceed.

MS OPENDI: Thank you, Mr Speaker. I had already talked about the Uganda Demographic and Health Survey, where the deaths per 100,000 live births are 336, implying that we lose 16 mothers every day in this country. This is at facility level.

There are very many mothers that die without even reaching the facilities. The facility-based maternal mortality ratios are higher in number and have been reported on the increase. However, Government and the Ministry of Health have not paid as much attention to these deaths.

Many mothers lost their lives during the COVID-19 lockdown and still continue to die at health facilities, due to negligence and corruption practices by some health workers.

Mothers are expected to buy supplies needed for childbirth and pay theatre fees in public facilities. The mothers continue to complain about de-humanisation during childbirth in these facilities. This is probably why some mothers opt to continue to deliver in the hands of traditional birth attendants, who were long outlawed in 2005.

Although 74 per cent of the child births in Uganda are attended to by skilled health personnel, it is important to note that 44 per cent of the women do not receive postnatal care within the two weeks after childbirth, yet we know that many women die at the time around childbirth, just before, during and also after.

Teenage pregnancy contributes up to 17 per cent of all these maternal deaths and this has been another challenge. With over 300,000 teenage pregnancies reported, the maternal mortality is to increase if Government does

not intervene. This was during the COVID-19 pandemic, where we had this hike in the teenage pregnancy from 24 per cent to now 29 per cent of the girls below 18 years.

The most common direct causes of maternal injury and deaths remain excessive bleeding. Hemorrhage contributes 42 per cent of all deaths reviewed and 90 per cent of the hemorrhage is postpartum, which means it is bleeding after delivery.

The unsafe abortion, especially among the young women, stands at 22 per cent. There is obstructed labour, leading to rupture of the uterus, and other indirect causes such as anaemia, malaria, heart diseases, and of course also sepsis. All these deaths can be prevented. Maternal and Child Health is a key indicator for measuring the involvement of any nation, including Uganda.

The Constitution sets out the State's duty to ensure all Ugandans enjoy access to health services, and to take all practical measures to ensure the provision of the basic medical services to the population. However, there is no specific provision on the right to health.

The Government has violated their obligations, and yet Article 2 of the Global International Conventions supports the rights of pregnant women and girls and their new-born infants.

Mr Speaker, I will go straight to the prayers, since this item is already uploaded. We should note;

- i. That the Government's omission to adequately provide basic maternal health care in public health facilities violates the right to health and is inconsistent with and in contravention of Article 8(a), 39 and 45, read together with the objectives, XIV and XX of the National Objectives and Directive Principles of the state policy of the Constitution;
- ii. That the Government's omission to adequately provide basic maternal health care services in public health facilities

violates the rights to health and is inconsistent with and in contravention of Article 22 of the Constitution.

Mr Speaker, aware first and foremost, that the Government in line with SDG 3, committed itself to providing health care. There is also a Constitutional Court ruling and this is a landmark ruling. I think it was in August 2021, where some concerned citizens went to court and court made a ruling directing the Government to increase health sector funding to equip clinics and hospitals with health workers and facilities to save the lives of pregnant women. It also ruled on the expanded training of health workers in obstetric care and the requirement that the Government of Uganda report to Parliament with a copy of the report shared with the Constitutional Court on their compliance with the ruling starting with the Financial Year 2020/2021. This too has not been done.

My prayers are;

1. In order to meet the constitutional obligations of the state to uphold the rights of women and fulfill their reproductive rights, the Government should prioritise and provide sufficient funds in the national budget for maternal health care.
2. The Ministry of Finance, Planning and Economic Development should prioritise issues of maternal health, then in the 2020/2023 national budget so that necessities for maternal care are fully catered for.
3. The Government of Uganda through the Minister of Health should ensure that all the staff who provide maternal health care services in Uganda are fully trained and all health centers are fully equipped.
4. In order to maintain a consistent and deliberate effort to improve the status of maternal health care in Uganda, the Government through the Minister of Health should compile and submit to Parliament audit reports on the status -

there is supposed to be a maternal audit conducted whenever a mother dies in this country at any health facility. However, this is not being done. So, the minister is supposed to report on the status of maternal health at the end of each financial year and also comply with this court ruling which still stands.

5. The Government should improve access to quality care and medicines among the poor and marginalised population.
6. The ministry should set up dedicated hotlines where mothers in labour can report all cases of corruption and negligence at the health facility level.

Mr Speaker, there has been an increase deliberately of these caesarian sections. Mothers used to give birth normally and the caesarian section was a last option if the mother had obstructed labour or is unable to push the child naturally. Now, it is business that every mother that goes to a health facility must be operated on. The motivation behind this is that you must pay.

A mother reached out to me where they were demanding for Shs 500,000, in order to help deliver her of her baby. This is just about a week ago. Unfortunately, we lost this mother in the hospital because the health workers demanded for money, "put the money here; Shs 500,000, if you do not have it, your patient will die".

Mr Speaker, with a dedicated hotline, we would be able to sort out this corruption in the health facilities. Save the mother first and if they are to appreciate you, they can do it, but it should not be money first before lives are saved in this country.

I would like to appeal to this House to support this petition and end these senseless deaths of mothers who die while giving birth. It is now terrible for you to give birth. Some have now resorted to going back to the traditional birth attendants because when you go to the hospital without money, you cannot be attended to,

including my own hospital in Tororo. I get very many phone calls and I have to intervene and that is when the health workers attend to this mother. This should not happen in this era.

Mr Speaker, I beg to move.

THE DEPUTY SPEAKER: Thank you, Hon. Sarah. Honourable colleagues, I now open debate. Each one of us will use two minutes so that I can pick many Members.

10.23

MS SUSAN AMERO (Independent, Woman Representative, Amuria): Thank you, Mr Speaker. I thank Hon. Sarah for bringing this petition to this House. It is true, what she has said is happening everywhere in our hospitals. It makes me wonder why they increased salaries of medical workers, yet they are still extorting money from the poor people. I am saying this for the third time in this House.

I visited one of the health centres in Amuria and found that about 20 women had been operated on. It is a business between the midwives and the doctors. First of all, even when it is not necessary to be operated on, the nurses will advise you that you cannot deliver, they cannot give you an opportunity. What I know about the caesarian section is that it would be done when all options have failed and that is when you would be taken to the theatre, but now, it is a fashion.

Mr Speaker, I have been through C-section and life can never be the same when you are cut. There is a difference and there are things that you cannot continue doing freely because of those injuries and those injuries can lead to other complications. This must stop and we must come out.

I also heard about the audit that Hon. Sarah is talking about, it must be carried out everywhere. There are very many things that are going on in our health centres that do not come out –(*Member timed out.*)

THE DEPUTY SPEAKER: Thank you, Hon. Susan. I want to first get the women. Hon.

Ssemujju has never been for any C-section, his role is just to impregnate and then people go and –(*Laughter*)– Point of procedure from Hon. Amos Kankunda.

MR KANKUNDA: Thank you, Mr Speaker. It was not my intention to intervene because it is a good debate that we need to have. However, are we proceeding well to discuss this important matter in the absence of the Minister of Health?

THE DEPUTY SPEAKER: Thank you. What if it is a tactic of making you fail to discuss it? The Government is around, but also whatever we say here is captured in the *Hansard*. Since we shall make a decision on this, then the Clerk will extract the resolution of Parliament together with the *Hansard* and it will be relayed to the minister for action.

10.27

MS CHRISTINE KAAYA (NUP, Woman Representative, Kiboga): Thank you, Mr Speaker -

THE DEPUTY SPEAKER: I want to first give opportunity to women, then Hon. Macho's and Hon. Ssemujju's can come in later.

MS KAAYA: Mr Speaker, I would like to thank Hon. Sarah for the presentation and the report. Based on the recent reports, for example, in Kiboga, out of the 365 days, 349 days have no adequate equipment and items to use in the hospital, meaning the hospital has only like 15 days.

I visited our maternal clinics and I realised that most of the times, nurses have no materials including gloves. They are willing to serve women, but they have nothing to use. So, they just look on. One nurse asked me: "Should I begin work without gloves; where is my safety?" I just had to run out and buy some of these items.

There is a tendency by our medical personnel to hurriedly attend to women who go to hospitals with their husbands. Yet, many women these days are left to toil on their own. I do not know how they grasped that without

a husband, there is no attention given to you or you are catered for after others are handled even when you came early. This is an issue in most of our hospitals. Therefore, I would like to remind these medical personnel to do their work regardless of whether one has come with a man or the father of the baby, such that we reduce on the maternal deaths.

Mr Speaker, there is also an issue of dysfunctional equipment at maternal centres. Most times, scans –(*Member timed out.*)

THE DEPUTY SPEAKER: Thank you. Yesterday, women MPs were praising men when we were handling the Employment (Amendment) (No.2) Bill, 2022. They were even negotiating for us more paternity leave because we do a good job. It is on record of Parliament that the men are doing a very great job despite some having 10 women. Hon. Namugga -

10.29

MSGORETH NAMUGGA (NUP, Mawogola County South, Ssembabule): Thank you, Mr Speaker. I would like to inform the House that I represent the central region in Uganda Women Parliamentary Association, so I think it is such an important day for me and I thank my chairperson for presenting this petition.

Mr Speaker, I think the House agrees with me that we still have a challenge with health, right from the time of budgeting. We are here with a minority report for the current budget that we just passed, where we failed to provide money for interns and senior house officers' allowances because the funding was inadequate.

The Government needs to deliberately put an effort to fund the Ministry of Health. As we talk about the maternal health, think about mothers in the neonatal clinic. I am a mother of four children, but two went through the neonatal; the premature babies. These mothers suffer a lot. The Government needs to come out and comply-

THE DEPUTY SPEAKER: We can say both parents.

MS NAMUGGA: Mothers definitely suffer a lot. Though fathers care, it is not to the extent of the mothers. I agree that there are those fathers who come out to help.

Mr Speaker, can we agree that the health budget should not be cut. We have seen the current half-year performance; money was not released for the Ministry of Health to full capacity. I think the Ministry of Finance, Planning and Economic Development should release money for health 100 per cent. We can compromise other areas, but not health.

In the central region, we still have issues. Come to Greater Masaka; Masaka Regional Referral Hospital –(*Member timed out.*)

THE DEPUTY SPEAKER: Hon. Namugga, why I said both parents especially when you talked of the neonatal is because my son had the same situation. What was interesting was that the doctors said those children feel better on a chest of a man than of a woman. Yes, what they call kangaroo. So, I was made to sit for some good time when the mother was just seated; I was the one doing the work. Doctors have proved that men's chest are warmer than women's. (*Laughter*) We have a big obligation. Whether you agree or not it is science.

Hon. Muwuma since your chest is already warmer, wait a bit. I will pick you later. Let me first pick the ladies starting with Hon. Robina Rwakoojo.

10.33

MS ROBINA RWAKOOJO (NRM, Gomba West County, Gomba): Thank you, Mr Speaker. I would like to thank Hon. Sarah Opendi for this important presentation and I want to agree that there is inadequate provision for health facilities in our health centres. In Gomba, for example, there are no ultrasound scans yet women need to be checked while pregnant.

The attitude of the health workers contributes a lot. They delay to come; they first go to their gardens and come after 11.00 a.m. They sell mama kits and they are rude to women. The

totality of it is that it puts pressure on MPs to fill in the gaps. We hold health camps; we build health centres yet it is not supposed to be our work.

My women were delivering by the roadside. In our health centre, for example, there is only one delivery bed. You wait until the other one finishes, as if a baby can wait to come. So, I would like to thank Hon. Sarah and to support her presentation. Thank you very much.

THE DEPUTY SPEAKER: Thank you. Hon. Ssemujju had a procedural matter.

MR SSEMUJJU: Mr Speaker, thank you very much. My procedure is based on rule 30 under which this petition has been moved.

This petition is for UWOPA; the women MPs who are Members of this Parliament. I want to be guided whether MPs can petition themselves like a judge of the High Court filing a case in his or her own court. The movers of this petition are Members of Parliament and yet we can move a motion to vary the budget and we have considered the budget together.

The procedural issue I am raising is whether MPs can petition Parliament like a judge can file a case in his or her own court and then he or she begins hearing it and gives a judgement? I thought these petitions are by outsiders petitioning Parliament, but not Parliament petitioning itself.

THE DEPUTY SPEAKER: Honourable colleagues, women represent a special constituency; not a general constituency. The issues handled under UWOPA are not issues of advocacy among MPs. They are issues outside. In UWOPA, we even have staff who support us. I do not think the issues we are handling here are to do with no beds for giving birth or a doctor to attend to them.

I do not think among these MPs here, there is one who would suffer that fate since they have capacity to go to Nakasero Hospital. They have medical insurance which Parliament pays for. So, the issues they are raising are issues that

affect our constituents. This is why we have allowed them here in general because there are issues which they have gathered from their outreach as MPs.

Since our rules do not have space for forums, we do not recognise them to bring business direct on the Table. So, the only way they can go and pick all these issues is through such petitions, and they are not looking for any special benefit for themselves. Since they are issues for the public, I used my general authority to allow them as a Presiding Officer. *(Applause)*

10.37

MS JOSYLINE KAMATENETI (NRM, Woman Representative, Ntungamo): Thank you, Mr Speaker. I thank Hon. Opendi for this petition. Issues of maternal health all rotate around the budget. It was in 2001 when they made all health centres II not to be operational. There are some areas where it is very hard to move from a parish or village to a health centre III.

Government should make an effort to make health centres II operational, at least for antenatal, postnatal and immunisation services. There are some women who get pregnant and give birth without going for antenatal services. Their children also grow up, get married and give birth without getting such services.

We have a challenge of not having fridges at health centres III, where we can keep blood for women who over-bleed. They have to be referred to district health centres and some of them die on the way there. We do not even have enough ambulances to transport the women.

We can talk about these things the whole day, but as long as we do not increase the budget, we shall not get anything positive out of this. So, I urge the Government to make a deliberate effort to increase the budget for the Ministry of Health. Thank you.

THE DEPUTY SPEAKER: Thank you. I am starting with women. Men, in this, you are culprits; all these problems they are facing are because of your actions. *(Laughter)*

10.39

MS JULIET BASHIISHA (NRM, Woman Representative, Mitooma): Thank you, Mr Speaker. Honourable chairperson of UWOPA, thank you very much for this petition. Sometime last year, I visited Mitooma Health Centre IV – and it was a weekend. I was surprised to find women lining up to go and give birth. There was only one midwife; the rest had gone for the weekend.

This was very unfortunate because with delivery, you cannot say this is Monday, I will wait until maybe Saturday to start labour pains. So, absenteeism amongst those midwives is also a challenge.

We have another challenge of our own staff ferrying medical items out of the health facilities. In the last two weeks, I witnessed the offloading of boxes of gloves in my district. It is not that they do not supply them; they have, but they sell them. We have drug shops around all hospitals, including here at Mulago. Who owns those drug shops and pharmacies? So, we have to even check ourselves. Are we working ethically?

Lastly, Mr Speaker, I do not know whether you have also observed that these days, someone who fails exams prefers to go for nursing – *(Interjection)*- yes, some of them go after they have failed exams – *(Member timed out.)*

10.41

MS CHRISTINE NDIWALANA (NUP, Bukomansimbi North County, Bukomansimbi): Thank you, Mr Speaker, for giving me this opportunity. We thank the honourable member who has presented this matter.

Regarding cases of caesarean section, we are, of course, very worried. The rate of teenage pregnancies is on the rise and it also contributes to caesarean section cases. At times, midwives connive with the doctors to make money – yes, I agree – but still, it is not a must that caesarean sections can be done when a patient has not decided to be given that service.

At times, patients also go to the doctors and ask for caesarean section. That is also accepted because today, younger mothers do it for cosmetic purposes. So, if a mother approaches you that she wants to undergo a caesarean section, you can also accept to do it.

Concerning the cost of caesarean section, it is an issue in some hospitals, but we have to find out. I sit on the Committee on Health and it worries us why caesarean sections are on the rise. However, if we look at teenage pregnancies, you also have to compare.

I also want to say that the increasing number of teenage pregnancies today is because we are on social media. Previously, people did not know what to do, but today, you find – *(Member timed out)*

THE DEPUTY SPEAKER: Thank you. After the female MPs, I am picking *Ssalongos*. *(Laughter)* If you are a *Ssalongo*, better show me a sign. I need certain criteria to follow and handle you.

10.43

MS AISHA KABANDA (NUP, Woman Representative, Bukomansimbi): Thank you, Mr Speaker. First of all, we are not marketing our own people if we come to Parliament here and say that people who have failed exams go and do Nursing. That is very wrong. No one fails Science subjects and does Nursing. One should have passed Mathematics and, at least, two Science subjects. So, that is not right.

Having said that, allow me, Mr Speaker, to share a story that I witnessed when I was a Resident City Commissioner. I went to Naguru Hospital after I had been told that the medical officers were not attending to patients there.

I went in the night to check on what the medical personnel were doing and I was called into the labour ward. You do not know what people in the labour would go through. I found about 20 women delivering at the same time. For some babies, the head was peeping out. For another, it was the face and the other the chest. The hospital was understaffed. One person was supposed to attend to all those mothers.

So, whereas we complain about low or poor services in hospitals, we should be able to care about the midwives in those health facilities. The fertility rate in Uganda is very high. We need to increase the number of midwives and nurses attending to mothers.

Having said that, it is regrettable – it is not true that women, especially in the villages, would choose to go for caesarean section. Many of them are forced to. In Gombe Hospital, we were told that the rate is now at 40 per cent. Out of every 100 women who go to deliver, 40 are caesarean cases. That is regrettable; something is wrong and must be attended to.

Lastly, as we think about women who die while in labour, think about the children they leave behind. Many children are left motherless. You should know, Mr Speaker, that whereas a few men are good and attend to their wives, several of them leave the – *(Member timed out.)*

10.45

MS EVERLYN CHEMUTAI (Independent, Woman Representative, Bukwo): Thank you, Mr Speaker. I take this opportunity to thank Hon. Sarah Opendi and I support this petition 100 per cent.

Mr Speaker, as we talk about the budget for health, the Ministry of Health has also taken up the fight against health centres and district hospitals. For example, they decided to cut the annual budget of Bukwo District Hospital; moreover it is a district hospital that is handling referrals from health centres II and health centres III.

We lost two mothers two days ago because the district has no finances to buy gloves to help these women. So, I ask the Ministry of Health to reinstate the budgets for health centres and district hospitals so that they can be able to handle issues of mothers and the referrals from the health centres III. Thank you.

THE DEPUTY SPEAKER: Thank you. Honourable members, in the next 20 minutes, I want to ascertain quorum. I know there is a joint committee meeting - committees for

finance and national economy – that is going on. They will have to come and join us so that we ascertain quorum and handle very critical business, in terms of the Bills and all that.

Please, inform your colleagues who are outside to come in; tell the Whips, committee chairpersons and the Leader of the Opposition to get in so that we ascertain quorum.

We shall start with the *Ssalongos* and end with polygamists. *(Laughter)*. If you know you have ever shared with me, I know you. The Hon. Basalirwa's are special, but if you are not under the special category of Members like Hon. Basalirwa, Hon. Katoto and you are a polygamist, you will speak last.

10.48

MS BETTY AOL (FDC, Woman Representative, Gulu City): Thank you, Mr Speaker. I must also congratulate you for accepting to do that kangaroo work together with your wife. You are very exemplary and you can actually advocate for women so that men cooperate with their wives. We know that children are gifts from God so this role is for both parents.

One thing that people suffer with is the infrastructure and not only on health. One of the best health facilities in Gulu City is called Mary Queen of Peace by the Catholics. It does not have good access roads because they are broken. There is also no electricity, but they have all the facilities for mothers to prevent infant and maternal mortality rate. Therefore, infrastructure, electricity and roads are very important.

Outreaches cannot now be emphasised and yet those days they used to be there - these days, you visit a health facility, but you do not even see their programs for outreaches.

The health centres I are not housed in buildings; they can be under a big tree in a very big home, where people get health education. We still need this health education to reduce our infant/maternal mortality rate.

There are also no ambulances for women in case of an emergency. The ambulance service is –(*Member timed out*)

10.50

MS HELLEN WANDERA (NRM, Woman Representative, Busia): Thank you, Mr Speaker. I am a woman who feels pain seeing other women suffer –(*Interjection*) - being a mother does not mean you have to give birth; we are caretakers -

THE DEPUTY SPEAKER: You are making her get scared of –(*Laughter*)

MS WANDERA: We are trying to fight HIV/AIDS in Uganda, but the number of HIV/AIDS infections is increasing because mothers fear going to hospital due to the fact that the doctors and nurses harass them. Therefore, they resort to giving birth from home without any medical guidance.

We have over 146 districts in Uganda, but we do not have ambulances to cover all of them. The nurses are few, the doctors are very harsh and the mothers are not attended to.

I visited the health centres in my district where the women give birth and the situation I found was alarming. They do not have gloves. They tell these women to buy gloves and yet our mothers in the villages do not have that money. The Government should also increase the budget of the Ministry of Health so that we can cater to these issues. Thank you.

10.51

MS SANTA ALUM (UPC, Woman Representative, Oyam): Thank you, Mr Speaker. I also thank Hon. Sarah. I think the ministry which should have been here is the Ministry of Finance, Planning and Economic Development, and not the Ministry of Health. This is because all these problems that we are talking about arise from the finance ministry.

As a Parliament, it is on record that we have been advocating for an increase in the budget. If the budget is given, then it should be followed by money released from the Ministry of Finance, Planning and Economic Development.

In most of our health centres, there is no equipment; even the bare minimum. I visited some intern doctors and they did not have gloves, but when I went further to inquire, I discovered that the Government had not supplied them with those gloves. This is very bad because even the health workers, doctors, are not comfortable attending to a patient without gloves.

Secondly, I want to thank you for being a role model. The men out there, especially in the rural areas, need this kind of education. They need to make sure that when their wives are going to the hospital, they follow and support them. They should not be absentee fathers at that particular time. It is very bad for a woman to lose life when she is trying to bring another one.

Finally, allow me to mention something on the scans and the X-rays. Most of our health centres IIs and IIIs - because I have a health centre II next to my home - do not have some of these things, and yet we have so many mothers seeking treatment from them. Imagine in a health centre II, at the end of the month, you can get over 100 mothers at the facilities and the –(*Member timed out.*)

10.53

MS CONNIE GALIWANGO (Independent, Woman Representative, Mbale City): Thank you, Mr Speaker. I also add my voice to thank Hon. Sarah Opendi for the petition. It is very sad for a woman to lose life while giving life. Therefore, some of the issues that she put in the petition, like the dehumanisation of the mothers at childbirth, many times, the midwives tend to harass these mothers. It may not be that they are bad hearted, but because of the stress at work; one woman handles over 20 women and so, you cannot expect her to handle these women with bear hands.

It still gets back to the finance ministry to provide the money to the health sector so that these women are not harassed. If the staff were adequate, there would be no de-humanisation; this may be happening, but on a very small

scale by only bad hearted nurses. However, most of them are good, but because of the stress at work, they behave the way they do.

There is a lot of teenage pregnancy caused by unscrupulous men who do not respect under-age girls. Majority of these girls who end up pregnant are suffering from cervical cancer, according to research, because their organs are not yet fully developed to handle what these unscrupulous men – *(Member timed out.)*

10.55

MS HANIFA NABUKEERA (NUP, Woman Representative, Mukono): Thank you, Mr Speaker. I thank Hon. Sarah for her report. I have a scenario in Mukono where a patient came to the hospital for delivery. When she reached, there was no electricity at that time and the midwife asked her why she did not come along with a matchbox and a candle. She was told to first bring a matchbox and candle so that they could work on her.

I urge the Government to provide basic needs. How can one go to the hospital at that stage and remember to carry a candle or even a matchbox? A candle cannot even work; we need standby generators because some of our constituencies do not have electricity. *(Applause)*

So, the Ministry of Health together with the Government should put standby generators to help our mothers deliver. I thank you.

THE DEPUTY SPEAKER: Thank you. Now, you have made Hon. Mawanda to clap until – *(Laughter)*

I had picked Hon. Milton Muwuma and Hon. Macho. I think because *Ssalongos* have become many, I will give an opportunity to polygamists who are not Muslims. So, you stand up and we confirm that you are a polygamist. *(Laughter)*

10.57

MR MILTON MUWUMA (NRM, Kigulu County South, Iganga): Thank you very much. Mr Speaker, allow me to salute Hon. Sarah Opendi for presenting the petition to this Parliament. Members have been alluding to the

issues of basic necessities in hospitals, but you find that even a small drug like Ergometrine that is administered to women that are bleeding – you can visit many health centres and this drug is missing.

Mothers die while bleeding and the nurses have nothing to do. It is our humble prayer that we begin addressing and reviewing what commodities are sent to health centres or hospitals. You find a hospital receiving boxes of condoms as if we are going to manufacture children in hospitals, instead of sending drugs that are required.

There is a need for us to also run nationwide campaigns for blood donations. You find hospitals like Iganga General Hospital, at times you go there for three consecutive days and they do not have blood. You run to Kakira Sugar Works Hospital, Busesa Grade Two Referral Hospital which are of lower grades to Iganga General Hospital because they have run out of blood. There is no market or factory that manufactures blood.

We all need to take this up and mobilise blood donations such that we are able to save mothers when giving birth. I thank you, Mr Speaker.

10.59

MR GEOFFREY MACHO (Independent, Busia Municipality, Busia): Mr Speaker, I thank you for giving the opportunity for this petition to come on the Floor of Parliament. It is timely and I thank my sister, Hon. Sarah Opendi. It is true, the Government has tried, but has left all the burdens many times to Members of Parliament.

Yesterday, I felt discomfort when I read in the *New Vision* that from July, the Ministry of Finance, Planning and Economic Development will not allow ambulances for Members of Parliament to carry out health services. Moreover, we are supplementing Government efforts.

I, therefore, need the ministry to clarify on that matter because we believe the offer we have made has saved many lives of mothers in this country.

In addition, we are requesting the Government through the petition of Hon. Sarah Opendi, that the health centres that are on cross borders like Busia Health Centre IV which we call “Red Cross”, we have many mothers who cross from Kenya to come and give birth in Uganda. We have requested the Government to turn these health centres into community hospitals, but it has fallen on the deaf ear. This has infringed on the few resources that the Government gives us.

Therefore, my prayer in this petition is to make sure that we have more facilities, services and a bigger budget for the health centres at the cross border because we believe in East African integration.

Lastly, I want to agree with my honourable colleague that we need regional blood banks because if we had a regional blood bank or blood banks at referral hospitals like the Red Cross Health Centre – *(Member timed out.)*

THE DEPUTY SPEAKER: Thank you. Rt Hon. Prime Minister, I need you to verify with the Ministry of Health whether, indeed, starting next financial year, that you are stopping ambulances for Members of Parliament from carrying out health services as Hon. Macho has stated.

11.02

MR JOHN TEIRA (NRM, Bugabula County North, Kamuli): Thank you, Mr Speaker -

THE DEPUTY SPEAKER: Honourable colleagues, sit comfortably; you do not need to lobby. *(Laughter)* You see, I do not have one item. If you have been seeing how I do my work, when I pick an honourable colleague, I usually give chance to those who have not spoken on the previous item because we have many items we are running. Otherwise, if I am to pick each one of you on one item, then we shall only handle one item on the Order Paper. Do not mind, if I do not pick you now, I might pick you on the next item.

MR TEIRA: Thank you, Mr Speaker. It is the policy of the Government to have Health

Centre III in each subcounty. We still have subcounties that do not have Health Centre IIIs. For the record, Balawoli Subcounty in Bugabula County North is one of them. We have had several engagements with the Ministry of Health and we do not have one yet.

It is also a policy that every constituency must have a Health Centre IV. We still have many constituencies that have not yet attained Health Centre IV status hospitals. This is where the problem starts, in the process where mothers fail from Health Centre IIs where they begin, they need to be moved to Health Centre IIIs. But where there are no Health Centres IIs and Health Centres IIIs in a subcounty, by the time they reach to the next subcounty, they have already bled to death.

So, we need to actualise this policy throughout the country. We can go on record as the 11th Parliament that oversaw the existence of Health Centre IIIs in each subcounty and Health Centre IVs in each constituency.

Mr Speaker, this should be coupled with an ambulance at all the Health Centres IVs in each constituency. I welcome it if it is true, that the Ministry of Health is banning ambulances of Members of Parliament, as long as they can provide an ambulance at every constituency level, where we are advocating for a Health Centre IV. I beg to submit. Thank you.

11.04

MR PAULAKAMBA (NRM, Busiki County, Namutumba): Thank you, Mr Speaker. The issue of health care in this country needs a holistic approach. If we are in a country where mothers walk 20 kilometres looking for a health facility and we expect all to be well at delivery or post-delivery, then there is a serious problem.

For example, my last subcounty in the constituency is Bugobi Subcounty. The mothers walk or travel 14 kilometres to the nearest Health Centre III which also does not have storage facilities for blood. They go bleeding, for instance, to Bulange Health Centre III then to Iganga General Hospital, when they find

no blood there, they have to be transported to Mbale.

What surprises me is that there is no blood in Government health facilities, but you find blood in small clinics. We would like to know why you cannot find blood in a general hospital, but there is blood in a private health unit? We need to deliberately deal with the issue of blood in this country, we need to sensitise Ugandans to donate blood, but at the same time, there should be a clear mechanism –(*Member timed out.*)

11.06

DRE LISARUTAHIGWA (NRM, Rukungiri Municipality, Rukungiri): Thank you, Mr Speaker. I want to thank Hon. Sarah for bringing this petition, especially on the death of a woman giving birth. Today, the maternal mortality ratio stands at 336 per every 100,000. One hundred thousand is an average population of a constituency. You can imagine, at the end of the year, almost half of a constituency is dead in such a process. This is how one should appreciate our mothers. Otherwise, when we say it is 336 - You can imagine dead bodies given birth to by mothers in a playground.

The biggest challenge is the system. The health centres II, as you know, are being phased out. Instead of increasing staffing to include a midwife at the health centre - that would help to save the situation.

We have very many non-functional health centres IV. Mr Speaker, I would like to inform you that even in the municipalities mothers die yet in the municipalities, people are informed and can quickly access health care.

In Rukungiri Municipality, we have Rukungiri Health Centre IV, which is non-functional – (*Member timed out.*)

11.08

MR JORAM TIBASIIMWA (NRM, Older Persons): Thank you, Mr Speaker. I would like to thank Hon. Opendi for this petition and clearly state that some pregnant mothers do not come to the health centres because the centres are very far from their areas.

Secondly, the staffing level of nurses in some hospitals and clinics is low. Therefore, nurses get tired of working on very many of these pregnant mothers.

Lastly, I want to say that like other public servants, nurses are getting very little pay and this is a disincentive to the nurses working for such long hours with that little pay. I would like to appeal to the Government to increase their pay and the finances given to hospitals and health centres. Thank you.

THE DEPUTY SPEAKER: Honourable colleagues, you can see our Order Paper. I am going to give you opportunity on other issues.

I now put the question that the petition of Uganda Women Parliamentarians Association on escalating cases of maternal mortality be adopted.

(Question put and agreed to.)

THE DEPUTY SPEAKER: Clerk, extract the resolution and relay to the minister together with a copy of the *Hansard* so that all these views can be clearly captured. Thank you, Hon. Sarah.

LAYING OF PAPERS

REPORT OF THE DELEGATION OF PARLIAMENT TO THE 65TH SESSION OF THE OACP PARLIAMENTARY ASSEMBLY AND THE INTER SESSIONAL COMMITTEE MEETINGS OF THE OACP- EU JOINT PARLIAMENTARY ASSEMBLY HELD FROM 25TH FEBRUARY TO 3RD MARCH IN BRUSSELS-BELGIUM

11.11

MS CECILIA OGWAL (FDC, Woman Representative, Dokolo): Mr Speaker, I would like to thank you and the leadership of this Parliament for allowing this particular report to be tabled at this material time. Embedded in this report are very serious elements that this Parliament needs to take note of. I beg to lay on the Table a copy of the report.

Mr Speaker, if it is allowed, give me just two minutes to highlight the elements I would like Parliament to focus on.

THE DEPUTY SPEAKER: Please, do.

MS OGWAL: First, this meeting that was held in Brussels in February and early March focused on key issues in the new Cottenham Agreement. I think Members are now acquainted with the agreement. The old one has expired; a new one was worked on and is due for signature in June next month.

We came to discover that in this new Cottenham Agreement, three things were being embedded that we need to take note of. First, the agreement embedded a clause in article 97, which talks of the human rights convention to be embraced in totality. When they say, “embraced in totality,” it means all the elements that are supposed to be included in human rights treaty like abortion, homosexuality and all those issues that we are now acquainted with.

Mr Speaker, the delegation you led was very uncomfortable about that. They objected to it and we all agreed with the other OACP group that this is one area we need to renegotiate.

The second element is that this new Cottenham Agreement has now reached a position to separate the OACP group. In other words, Africa will work alone; Caribbean and the Pacific will also work alone - separating the group into three areas and deal with them individually. Whereas the European Union will continue to work as a group, they will be dealing with the African, the Caribbean and Pacific groups individually.

This is a very serious element embedded in this agreement. It will weaken the bargaining power, which the OACP-EU has always had in this particular agreement.

The last one, which is very disturbing in that the agreement we are very uncomfortable with - and I think Members of Parliament must be wondering how we can sign an agreement, which legalises homosexuality and all that.

The agreement has already been initialed by the council of ministers.

Therefore, it is important that Members get interested in what our council of ministers and ambassadors do on our behalf. In this particular case, the Ugandan delegation was embarrassed for opposing a document which had already been approved and initialed by our council of ministers.

Mr Speaker, these are the critical elements I wanted to bring out. Of course, on a better note, the Maputo Declaration has made some very powerful declaration in favour of the women movement. We do not have time to read them now, but we will be circulating it for Parliament to take note. I beg to move.

THE DEPUTY SPEAKER: Thank you. Honourable colleagues, just for clarification purposes and in line with what Hon. Ogwal has said; you remember a few months ago, we called the Minister for Foreign Affairs here and he made a statement. He said Uganda had not signed, but had agreed as OACP Ministers to have their negotiators. The Minister of Foreign Affairs for Togo had negotiated on behalf of the rest and were working with ambassadors.

He also said these concerns are varied. What is very important will be to ask the minister to come and tell us what he is doing about it. The Post-Cotonou Agreement laid down the framework of the engagement between the European Union and Africa, Caribbean and Pacific countries. We are one bloc and have been dealing together to negotiate with the European Union.

So, let the report be referred to the Minister of Foreign Affairs, who will need to come back and give us a report on the action. -

I do not want to open up debate on this, honourable colleagues. When the minister comes to report on the action taken, we shall be able to debate. We shall keep you updated on this matter because we are following it up seriously.

Next item. Procedure, Hon. Aisha?

Thank you, Hon. Cecilia Ogwal. (*Applause*)

MS AISHA NALULE: Thank you, Mr Speaker. This month, we made two years in Parliament and we represent the people, whose voices we bring here. As we go for recess, they will expect answers from us. On our Order Paper, for some time we have had an item on “Business to Follow”, where the Prime Minister was to give us answers on the alleged enforced disappearances of persons. Wouldn’t it be procedurally right that today, the Prime Minister gives us a statement on the alleged disappearance of people so that we know what to tell the people as we go back to the public?

THE DEPUTY SPEAKER: Let the Prime Minister come to the House and, at that time, I will address it to her. Thank you.

BILLS SECOND READING

THE COMPETITION BILL, 2022

THE DEPUTY SPEAKER: Honourable minister?

11.18

THE MINISTER OF STATE FOR TRADE, INDUSTRY AND COOPERATIVES (INDUSTRY) (Mr David Bahati): Mr Speaker, I beg to move that the Bill entitled, “The Competition Bill, 2020” be read for the second time.

THE DEPUTY SPEAKER: Thank you. Is the motion seconded? (*Members rose*) It is seconded by – now, I want to pick from each side. From NUP, I pick Hon. Kayemba-Ssolo. From FDC, I pick Hon. Betty Aol. From Independents, I pick Hon. Amero. From NRM, I pick Hon. Mushemeza. From the Executive, I pick the Attorney-General – ooh! Hon. Mushemeza is Independent – (*Laughter*) – but he is more of yellow than some of you people who are in yellow. (*Laughter*)

Let me also pick Hon. Emely Kugonza, Hon. Andrew Ojok Oulanyah, Hon. Rukaari, Hon. Tom Bright – and the rest of you, honourable colleagues.

Honourable minister, would you want to give us a brief about the Bill?

MR BAHATI: Mr Speaker, since we liberalised our economy in 1993, the economy has grown big. Our GDP has grown from \$5.6 billion to, now, \$45 billion. Our industrial base has also grown from a mere 81 factories in 1986 to, now, 8,640 factories. As we know, our population continues to grow. We are now at 45 million and we will be 100 million in 2050.

As competition grows, there are many things that happen in these economic activities, including bad competitive practices. So, this Bill is an ethical standpoint, to check on those bad practices in our economy and also to try and correct the defects that we have in our economic activities. There are just a few sectors like banking and energy that have competition provisions in the law, to regulate them. Such provisions are restricted to those sectors and not comprehensive enough for the purposes of competition law.

So, the Bill seeks to correct these behaviour in the market, but most importantly, to facilitate competition so that small and big companies can smoothly compete and grow our economy.

Mr Speaker, I am informed that the committee looked at this Bill and is ready to inform the House so that we can take appropriate decisions. I beg to move.

THE DEPUTY SPEAKER: Thank you, honourable minister. Honourable chairperson of the committee for trade?

11.22

THE DEPUTY CHAIRPERSON, COMMITTEE ON TOURISM, TRADE AND INDUSTRY (Ms Catherine Lamwaka): Mr Speaker, I beg to lay on Table the report of the Committee on Tourism, Trade and Industry on the Competition Bill, 2022. I beg to lay the

minutes of the meetings of the committee as well.

Mr Speaker, I will now proceed to read the report of the committee, which has been uploaded on the iPad.

Introduction

Mr Speaker, the Competition Bill, 2022 was read for the first time on the 30 of November, 2022 and referred to the Committee on Tourism, Trade and Industry for consideration in accordance with Rule 129(1) of the Rules of Procedure of Parliament.

2.0 Policy and principles of the Bill

Mr Speaker, the policy behind the Bill is: to promote and sustain fair competition in the markets in Uganda; to prevent practices having adverse effect on the competition in markets in Uganda, and; for related matters.

The primary goal of the Bill is to control anti-competitive behaviour of firms that has negative impact on competition in Uganda's market. Furthermore, the Bill seeks to encourage and maintain market competition, safeguard the interests of consumers and safeguard market freedom in the markets in Uganda.

2.1 Defects in the existing law

Uganda has no specific law that controls anti-competitive behaviour of firms in the markets in Uganda. A few sectors like banking and energy have competition provisions in the laws regulating them. Such provisions are restricted to those sectors and are not comprehensive enough for the purposes of competition law. The Bill seeks to provide a comprehensive set of principles to regulate competition in all sectors.

2.2 Remedies proposed to deal with the defects

The Competition Bill, 2022 seeks to provide for;

Establishment of a comprehensive legal regime of competition in Uganda.

- a) Avoiding certain activities in the market that hurt the businesses or consumers or both sectors and curb the practices violating the ethical behaviour or the market.
- b) Sustainability of competition in the market and considers the interests of the consumers and allows the participants of the Ugandan market to trade with freedom.
- c) Promotion of competition between enterprises and leaves the market unbound by the manipulation of stronger trading enterprises.
- d) Regulation of anti-competitive agreements, abuse of dominance, mergers and acquisitions.

3.0 Background to the Bill

The first Bill on competition was developed in 1998, but was never enacted into law. In the absence of such legislation, sector regulators such as Uganda Communications Commission, Bank of Uganda and Electricity Regulatory Authority, have attempted to control unfair trading practices and general consumer protection in their respective sectors by establishing regulations for the purpose.

These have, however, been insufficient and grossly inadequate for competition regulation in the country, since provisions in such regulations are restricted to only those sectors.

The absence of a law to regulate competition in the country has caused various threats to Uganda's free market economy that can only be adequately addressed by effective trade sector regulation and or in a coherent manner.

The background to the Competition Bill, 2022

Article 21 of the Protocol on the Establishment of the East African Customs Union provides for the requirement by partner states to prohibit any practice that adversely affects free trade, including any agreement, undertaking or concerted practice, which has, as its objective or effect, the prevention, restriction or distortion of competition within the East

African Community. As such, the East African Community has a vision to promote economic integration by ensuring that there is fair competition.

All the member states are obliged to adopt individual policies and laws pertaining to achieving the above vision. The enactment of a competition law in Uganda is key in the realisation of the said vision, since other member states including Kenya and Tanzania, have competition laws, while Rwanda has in place, the Rwanda Inspectorate Competition and Consumer Protection Authority.

For regional integration, market surveillance in the East African Community is buttressed by Section 6 of the EAC Standardisation, Quality Assurance, Metrology and Testing Act, Regulations, 2013 that are intended to enhance the operationalisation of the East African Community Standardisation, Quality Assurance, Metrology and Testing Act, 2006. It is on this basis that the Competition Bill was formulated.

Mandate of the committee in reference to the Bill

The sectoral Committee on Tourism, Trade and Industry derives its mandate from Article 90 of the Constitution of the Republic of Uganda and accordingly, Rules 156(2), 159(3), Rule 187(4) and Rule 189(5) of the Rules of Procedure of Parliament. These provisions enjoin the committee with the authority and power to, among others, discuss and make recommendations on Bills laid before Parliament.

In effect, on 30 November 2022, the Competition Bill was read for the first time and was referred to the Committee on Tourism, Trade and Industry for consideration by the Rt Hon. Speaker of Parliament of Uganda. In accordance with Rule 129(1) of the Rules of Procedure of Parliament, the committee executed her mandate by carefully and critically analysing the provisions of the Bill and making recommendations for the consideration of Parliament.

Methodology

The committed employed the methodologies that are listed below -I may proceed to read if it is okay, Mr Speaker -

THE DEPUTY SPEAKER: No, we do not have much time.

MS CATHERINE LAMWAKA: Members can go through that.

We held meetings with stakeholders and we also had memoranda.

Benchmarking

The committee carried out a study visit to Zambia to learn the best practices in regards to the Competition law. The Zambian law on Competition, as amended in 2010, provides for; the Competition and Consumer Protection Commission, safeguards and promote competition, protects consumers against unfair trade practices, provides for the establishment of Competition and Consumer Protection Tribunal, repeal and replace the Competition and Fair Trade Act, 1994 and provides for matters connected with it.

Mr Speaker, we carried out a desk review, as stated in the report.

The Bill's compliance with human rights

The committee did its analysis and realised that this Bill is fully complying with human rights requirements. Article 21 of the Constitution of the Republic of Uganda provides for equality and freedom from discrimination. The committee noted that the Bill is human rights compliant, since it seeks to provide for equality and freedom from discrimination.

The Bill intends to fill the gap in the laws of Uganda regarding control of anti-competitive behaviour of firms that have a negative impact on competition in Uganda's market, thereby leading to equal opportunities for all.

The Bill provides for the general protection of consumers because it seeks to encourage and

maintain market competition, safeguard the interests of consumers and safeguard market freedom in the markets.

The Bill focuses on avoiding certain activities in the market that hurt businesses and consumers or both and curb the practices violating the ethical behaviour of the market.

The Bill considers the interests of the consumers and allows the participants of the Ugandan market to trade with freedom.

The Bill is intended to cure the anti-competitive practices and tendencies that promote unfair advantage. This is progressive, as it will safeguard businesses regardless of their sizes, and avoid edging out the relatively small enterprises by big ones.

Article 28: Right to fair hearing

Clause 27 of the Bill provides for appeals of an enterprise or person aggrieved by a decision or made under the Act to appeal, therefore, providing for a right to fair hearing.

The committee observation and recommendations

General observations

The committee has made the following observations:

1. Uganda has never had a National Competition Law

The competition law is timely because Uganda has never had a National Competition Law. Despite being developed in 1998, the first Bill was never made a law. In the absence of such legislation, the regulation of competition has been applied on a sector-specific business. The key sectors have been telecommunications, electricity, insurance, banking, energy, among others. One of the key defects in the current regulatory approach to competition in Uganda is that sectoral regulation is not comprehensive to cover all matters related to competition in the country.

2. Positive aspects of the Bill

This Bill seeks to provide for protection of consumers because it provides for fairness and level playing fields for each of the participants in the market, which are important for its sustainability and advancement. When there is perfect competition in the market, the consumer is sovereign, as his or her welfare is increased.

The Competition Bill, 2022, aims at fostering competition not stopping it, but regulating it and making sure that the activity of business entities does not have an adverse impact on the market and the economy. The Bill's three most important features are; prohibition of anti-competitive agreements, abuse of dominant position and regulation of mergers, acquisitions, and joint ventures.

Some mergers, however, may reduce competition in the market, usually by creating or strengthening a dominant player. The objective of examining proposed mergers, acquisition and joint ventures is perfect in curtailing harmful effects on competition. The Bill also prohibits abuse of dominant position.

3. Consistency with the strategic aspiration of facilitating the growth of the trade sector in the EAC Community

Uganda is part of the EAC Community. The EAC established the EAC Competition Act in 2006 to deliver a mandate that is largely mirrored in the Competition Bill. Kenya, the largest economy in EAC established the Competition Authority of Kenya, 2010 moving in the direct footsteps of the EAC.

Therefore, the initiative by the Government of Uganda to come up with a Competition Law is consistent with the strategic aspirations of facilitating the growth of the trade sector, though in a regulated manner, where all win. Competition is bound to further grow with the deepening of integration. At the EAC level, DRC has since joined EAC while Somalia and Ethiopia are anticipated to join.

4. Uganda is an active member of COMESA and part of the COMESA free trade area

At continental level, Uganda has assented to the Africa Continental Free Trade Area that has created a universal market of \$ 21.9 billion, which affirms the degree of future competition. Therefore, enacting a Competition Law is an important development imperative for Uganda, but most importantly, the effective and efficient implementation of the law is even more important, since countries only integrate largely to trade and Uganda shall continue being subject to global competition, given the trading regime the country has already signed up to.

5. Threats to Uganda's free market economy

There are various threats to Uganda's free market economy that can only be adequately addressed by effective trade sector regulation. These threats include abuse of monopoly and market dominance, mergers, cartels, bid rigging, predatory pricing, among others. These actions undermine competitive pricing and drive out small businesses since they are unable to compete. The Competition Bill is critical to govern domestic markets in the interest of the general populace.

6. Facilitating growth of the trade sector in a regulated manner.

The Bill is consistent with the strategic aspirations of facilitating the growth of the trade sector in a regulated manner. On one hand, the Bill aims to discipline the behaviour of large firms especially transnational corporations, which sometimes exhibit a tendency to corner markets; on the other hand, it can promote production efficiency among local firms by promoting a level playing field.

The Bill will also protect transnational corporations from being exploited by dominant domestic firms especially the State owned because markets are seldom perfect and are sometimes vulnerable to abuse by dominant players.

7. Regulation of mergers

In 2015, a wave of mergers hit Uganda with the intention of out-competing other firms doing related business. Regulation of mergers creates room for small firms to increase their threshold in production and deters big enterprises from out competing the small firms from the market through merging. Therefore, regulation of such mergers protects smaller firms from being taken advantage of by other firms.

7.2 Specific observations on the Bill

7.2.1 Part I – Preliminary

1. The Bill is for an Act entitled, "Competition Act". The committee notes that the Bill seeks to promote and sustain fair competition in the markets in Uganda and to prevent practices having adverse effects on competition in markets.

Under part I of the Bill, there is provision for several exemptions. According to this Bill as proposed by the Government, the competition law does not apply to agreements arising out of international obligations, any person or enterprise performing a sovereign function on behalf of the Government.

The proposed law further mandates the minister to exempt any enterprise from the application of the law if it is necessary for national security or public interest.

Observations

The committee observes that the exemptions granted under clause 1(2)(a) are redundant. This is so since they enacted the East African Community Competition Act, 2006 which deals with the extra-territorial anti-competitive practices in the community. The COMESA, SADC among other regional blocks, also have elaborate provisions on extra-territorial anti-competitive practices.

The committee further observes that the exemption in subclause (2)(b), is too broad and subject to abuse. There are several companies

wholly or partly owned by the Government that are exercising sovereign functions and earn profit. Examples cut across all sectors of the economy including education and health. It would, therefore, be unfair for other private players to compete with the Government while it is exempted.

Under Part I, clause 1(3)(b), the power given to a minister to issue a Statutory Instrument to exempt any class of enterprises from the anti-competitive agreements under this Bill, is likely to be abused by individuals in the system who will influence the state to give them preferential treatment in the market and grant them unconscionable agreements in the name of promoting and enhancing development and value addition in production.

The committee further observes that the provision is unnecessary in view of the exemptions already awarded to the Government in the same clause in cases of exercising of a sovereign function. All the different jurisdictions in the East African Block and COMESA allow for the application of the Act on all economic activities.

Committee recommendations:

- (i) The law should apply to economic activities within Uganda if it is for economic gain. The legislation should apply to all persons including the Government, state corporations and local authorities in so far as they engage in trade.
- (ii) The exemptions, if any, should be on a case-by-case basis and not by Statutory Instrument. In the alternative, the committee recommends that the Government be given preferential treatment as opposed to exemptions.

7.2.2 Part II of the Bill administration

Mr Speaker, Part two of the Bill provides for the Administration of the Act. It provides that the Ministry responsible for Trade, Industry and Cooperatives is in charge of implementation of the law on competition. To properly

perform the functions stipulated, the ministry is to be assisted by a technical committee on competition and consumer protection. The technical committee shall comprise persons knowledgeable in competition and consumer matters from ministries, departments and agencies of the Government, the private sector and academia.

Committee observations

The committee noted that the Bill gives a very wide mandate to the ministry; implementation of both consumer protection and competition matters, but does not provide a corresponding structure to ensure that all issues of competition are adequately addressed. It is important to note that the ministry has other roles and so may not prioritise competition matters. To ensure that trade regulation is effective, there is need to have a statutory authority that effectively discharges its duties.

The committee observed that the section appears to give the Ministry of Trade, Industry and Cooperatives powers over all government agencies on issues of competition even in the different sectors where the enabling Acts give the regulators mandate. The provision is likely to lead to conflict of government agencies with the ministry arising out of a conflict of mandates stemming from the different statutes that establish the agencies.

It is important to note that our neighbouring countries where competition laws have greatly developed have an independent authority in place. Kenya has the Competition Authority of Kenya (under its Competition Act, No. 12/2010). Tanzania has a Fair Competition Commission (under its Fair Competition Act, No. 8/2003) and Rwanda has the Rwanda Competition and Inspectorate Authority (under its law No. 36/2012) relating to competition and consumer Protection.

The committee further notes that the Bill provides that the technical committee on competition and consumer protection shall be constituted by the minister by a Statutory Instrument. The Statutory Instrument under this

provision shall provide for the appointment, composition, functions, meetings, and remuneration of the technical committee. The committee observed that this may be compromising for the committee since it is the minister who is to be advised.

The committee observes that the principles for the Competition Bill were approved over 10 years ago with a view to establish an authority for consumer protection and competition. The Bill however, got to Cabinet at a time of rationalisation of Government Agencies and was returned with a Government directive that the implementation mechanism of the law be revised to be put under the ministry.,

The consequence of the rationalisation policy is that the Government ministries shall in effect develop policies and also implement. According to the Bill, the ministry is to be assisted by the technical committee to be composed of persons knowledgeable in the competition and consumer matters.

Notwithstanding the rationalisation policy of Uganda, the committee is cognisant of the fact that some authorities shall remain, for instance, Uganda Revenue Authority (URA) and Uganda Wildlife Authority (UWA). This is a clear indication that there are exceptions to the rationalisation policy. The committee is of the view that the exemption should also apply to competition matters because they are very technical.

The committee observes that the policy of rationalisation stems from the need to curb government expenditure, but all the stakeholders that made an input to the Bill were of the view that an independent authority would be best placed to implement the matters of competition and consumer protection.

The implementing body should ensure that it develops appropriate procedures for public sensitisation on advocacy and competitive awareness. This will help in building and sustaining a competition regime, supported by a high level of institutional trust.

The committee strongly believes that to ensure that trade regulation is effective and efficient for competitiveness, administration of the Act should be carried out by an independent authority.

Recommendations on Part II of the Bill

The committee recommends the following:

- i. Like the practice in different countries that have implemented a competition Act, an independent, self-financing Commission should be created to oversee competition matters. This is premised on the fact that competition matters are cross cutting and as such, there is need for an autonomous institution that has specialised persons to handle all competition matters. Therefore, the administration of the Act should be carried out by a specialised and independent commission that will ensure that trade regulation is effective and efficient. The commission should employ persons with appropriate skills and expertise. The oversight of supervisory roles should be reserved for the ministry;
- ii. Global experience has demonstrated that independence, objectivity and impartiality are key elements of a properly functioning and effective competition law regime. The absence of a specialised independent body or authority administering and enforcing the bill will reduce public confidence and therefore, its credibility and effectiveness;
- iii. The Government of Uganda takes interest in the obligation of Common Market for East and Southern Africa (COMESA). This is regarding funds accumulated from fines, penalties and fees paid to the secretariat, which is then distributed among member states;
- iv. The Government of Uganda should use such monies to establish the Competition and Consumer Protection Commission of Uganda.

- iv. The Commission structure should be well spelt out by prescribing functions, powers, recruitment procedure, their tenure and removal, and how the body is to be financed.

Part III: Prohibition of abuse of dominant position

Clause 10 of the bill deals with abuse of dominant position. A dominant position means a position of economic strength enjoyed by an enterprise individually or collectively, which gives it power to behave independently of its competitors, customers and consumers, and in particular, to foreclose another enterprise from competing in the relevant market. Such an enterprise should have a market share of over 35 per cent, among other criteria.

Abuse of dominant position may be understood as referring to conditions in which improper means are resorted to, to maintain or achieve positions of economic strength or market power or where such position is misused to attain benefits.

While companies combining forces and creating mergers or joint ventures can expand markets and bring benefits to the economy, some mergers and acquisitions may reduce competition. Notable also is that combining the activities of different companies may allow the companies, for example, to develop new products more efficiently or to reduce production and distribution costs.

Committee observation

The committee observes that an enterprise is deemed to be dominant if it possesses a substantial level of market power and can act without taking into consideration the reaction of its consumers or competitors. The bill prohibits organisations with dominant positions from abusing that position.

Abuse of dominant position may constitute; directly or indirectly imposing unfair purchase or selling prices, or other unfair trading conditions; limiting production, markets or

technical development to the prejudice of consumers; applying dissimilar conditions to equivalent transactions with other trading parties; making the conclusion of contracts, subject to acceptance by the other parties or supplementary obligations which have no connection with the subject of the contracts; and conduct designed to exclude competitors, including predatory pricing, refusal to deal, refusal of access to essential facilities, among others.

Clause 10(3)(a) states: “To determine whether or not an enterprise enjoys...” – Sorry, Mr Speaker. We can proceed to page 19.

The committee observed that dominance may arise in different forms and ways, depending on the kind and location of the market. It would, therefore, have been prudent for the ministry to carry out an independent survey and to prescribe a threshold that is in line with Ugandan jurisdiction.

Recommendation

The committee recommends that the threshold for dominance be revised, taking into consideration the unique characteristics of the Ugandan market.

Part IV: Mergers, acquisition and joint ventures

A merger is a combination of two firms which subsequently forms a new legal entity under the banner of one corporate name, while an acquisition is when a company purchases another outright.

Committee observation

The committee noted that the Bill is silent in relation to the period for making determination in relation to a proposed merger. Having no timeline might lead to fraud. The committee is further concerned that most local firms require nurturing before being exposed to external competition. Competitive pressure for very small production units does not motivate efficiency, but rather, collapses it.

Reference is made to Section 12A of the Zambian Act, which provides for consideration to be taken into account in mergers, including public interests, possibility of mergers resulting in technological efficiency or other pro-competitive gain for a firm or firms.

Further, Section 11 of South Africa's Act clearly categorises mergers in small, intermediate and large, and the Act later provides full functionality of the same.

The committee notes that the Bill, as proposed, does not provide for cross border relations and Uganda's obligations. In this regard, it poses a question as to cross border challenges, one of them being the COMESA, which has the COMESA Competition Commission. There are no transition provisions in the bill for the application and implementation of the regulations in the Common Market.

It is important to note that Uganda is a signatory to several treaties, protocols and agreements that include the African Continental Free Trade Area, East African Community and COMESA. Uganda is bound by her international commitments made at continental and regional frameworks, but the short title of the Competition Bill only makes reference to Uganda: "An Act to promote and sustain fair competition in markets in Uganda; to prevent practices having adverse effect on competition in markets in Uganda."

The committee observes that the law has to be made in consonance with Uganda's commitments. For instance, when it comes to mergers, regulations are intended to supersede the jurisdiction of national competition laws, where a merger falls into the COMESA Competition Commission ambit.

Furthermore, where a Ugandan company within two or more COMESA states seeks to merge with another Ugandan company with the presence in two or more COMESA member states, the companies would be required to notify both the ministry and COMESA Competition Commission.

Recommendation

The committee recommends that:

- (i) The competition law of Uganda should be harmonised with regional agreements to which Uganda is a signatory, to avoid enacting a law that would curtail Uganda's international relations;
- (ii) Uganda being a partner state to EAC, the objective of its competition law should be aligned with the EAC because the EAC competition is based on the respective countries' Acts and international best practices. Alignment of objectives means that the EAC countries can only differ in detail and implementation as far as supporting the EAC competition law;
- (iii) For mergers acquisition to be authorised, there should be a balance. The advantages of the merger should outweigh the disadvantages;
- (iv) The competitions commissions created under the Act should be empowered to ensure that mergers, acquisitions and joint ventures between systematically entrenched companies or enterprises are not allowed because such would pose a big risk to the consumers and the economy. For example, the mergers of strong players in the banking industry like Stanbic Bank and Centenary Bank would create an imperfect competition in the market.
- (v) There should be discretion to merge for some of the local firms that are struggling to reach profitable level of production and the result of which merger will be insignificant to the market.
- (vi) There should, first, be empirical research conducted to ensure that only potentially anti-competitive transactions are subject to control. Consideration should be given to timeframes for merger review.

Conclusion

Mr Speaker, the Competition Bill focuses on specific dimensions of public interest. This makes it possible to consider matters such as employment, specific industry development and small business development, which will play a very significant role in the long-term process of developing the nation's market.

Making markets work better with appropriate intervention to guide market forces to support broader development priorities is essential in economic development.

The Bill, once passed, will be beneficial to the public as it will result in robust competition, lower prices, higher quality of goods and services and greater innovation, protect consumers and maximise the efficient allocation of resources.

It will also stimulate growth and generate substantial benefits for the country and the economy. It will also bring the competition framework in our country in line with international best practice and current economic theory.

The committee recommends that "The Competition Bill, 2022" be passed into law, subject to the attached proposed amendments.

Mr Speaker, I beg to report. *(Applause)*

THE DEPUTY SPEAKER: Thank you, committee chairperson. This was very seamless. The Committee on Tourism, Trade and Industry has been outstanding in terms of the work they have been doing overtime. *(Applause)* We are glad that, at last, we are consolidating all the different legislations into one Bill – because we have been having a Government that has not been speaking together. Some sectors are regulated while others are not. Some of us, who have been in business, have really suffered. Sometime back, before I came here, I had a small business which was swallowed up by a giant overnight. Over 300 people, whom I was employing, lost jobs.

We slept when we had jobs, but by morning, someone had made a declaration that: "I no longer want to work with you. I am creating in-house..." They gave my business to a company in Dubai.

You find that you are on tension all the time; you can easily be swallowed up, especially in these sectors such as ICT, where young people can be easily employed.

So, I am really glad that the Government has brought this Bill. I want to open up the debate right away. I will start with those from the private sector – Hon. Ogwal, you been supporting the Private Sector Foundation for long. Hon. Emily Kugonza was the Chairman Uganda Investment Authority. I will also pick Hon. Isingoma and, then, Hon. Ssemujju will be justifying whether he is in business to discuss serious competition matters. We will also have Hon. Nandala.

Let us use two minutes each; we shall have more debate at Committee Stage.

12.00

MR MOSES OGWAL (NRM, Dokolo North County, Dokolo): Thank you, Mr Speaker. I also thank the committee chairperson for the presentation.

Mr Speaker, I find this report concentrating on the production aspects – safeguarding issues related with production. However, the element of consumer protection is not clearly brought out. When you had a benchmarking trip to Zambia, you found out that the competition law is combined with the one of consumer protection. So, you may wish to look at that.

However, I am happy that you brought out issues which would curtail support, particularly the one given to Government institutions. If you look at water production, you find that it is affecting other competitors because they are supported.

The issue of domesticating with the East African Community (EAC) would be good because the EAC law mainly concentrates on

trans-EAC related issues. So, bringing ours and combining it well would be a good one. Thank you.

THE DEPUTY SPEAKER: Thank you. Honourable minister, you need to update us for us to avoid referring to the Consumer Protection Bill, which I am meant to understand is in the pipeline. We need to know when it is coming. If it is not there – the committee was even ready to move a Private Member's Bill, but Government said: "No, we are working on it." We want that Bill, honourable minister.

12.02

MR EMELY KUGONZA (NRM, Buyanja East County, Kibaale): Thank you, Mr Speaker. I would like to thank the committee for a very good report. On the matter of exemptions – Government vis-à-vis the private sector – there should not be a distinction. We would need to have the same law applying across. Once the Government chooses to be in business, it must be able to do business by the principles that everybody is doing business. If you favour the Government, at the end of the day, they will fail the private sector, yet, world over, the private sector is the biggest contributor to socio-economic development.

Also, having the competition law brings us a notch higher because, for example, we would be at the same level with our peers in the region. If others in the East African Community have done it, we also need to ensure that we have a competition law as a country.

Also, the younger people, especially those who are in the areas of ICT, need protection. If we do not have a law on competition, we would be disadvantaging them.

The other issue which we need to look at - I think I can leave this for now, Mr Speaker. Thank you.

12.02

MR PATRICK ISINGOMA (Independent, Hoima East Division, Hoima City): Thank you, Mr Speaker. I also join my colleagues in thanking the committee for a job well done. When I was preparing for debate on this Bill,

I consulted one of the most prolific writers in this area of the market.

The man is called E.A. Brett. In 1987, he wrote a very good book titled, *States, Markets and Private Power in the Developing World: Problems and Possibilities*. In this book, he shows that where scale economies exist, market competition does not constantly reproduce an existing structure of small competitive units, but leads to the process of "creative destruction" in which large firms capable of exploiting innovation and cheapening cost of production destroy the market position of small firms and constantly increase their span of control.

So, in every important sector, we witness a process in which a multitude of small firms emerge in the early stages only to be displaced, through time, by those few, which managed to capture the commanding heights – and we have seen this happening in this country.

For example, Total Energies swallowed up - I am a player in the fuel industry. Total Energies swallowed GAPCO, Agip and Esso. Recently, Rubis swallowed Kobil and, earlier on, Kobil had swallowed Delta; Nile Energy Ltd swallowed Gaz and sometime back, Vivo Energy tried to swallow –(Member timed out.)

THE DEPUTY SPEAKER: Conclude.

MR ISINGOMA-MWESIGWA: Vivo Energy swallowed my company called Prime Petroleum Company Limited, but I resisted.

Mr Speaker, we need to visualise this situation and be cautious, when looking at this Bill. I see some contradictions; some of the issues conflict with this provision. I request the honourable members to look at the role of the market, especially in ensuring that it promotes the production and supply of goods and services. Thank you.

12.07

MR IBRAHIM SSEMUGU (FDC, Kira Municipality, Wakiso): Thank you Mr Speaker. In 2001, Uganda Revenue Authority took a company called Danze Enterprises Ltd

to court for not paying Shs 13 billion in taxes; Danze was started by President Museveni to generate income for NRM.

I want to be assured that people who have bad practices in politics can actually implement this law. He has talked about mergers and swallowing - NRM has swallowed UPC; it is now swallowing the DP, and it is attempting to swallow others. *(Laughter)*

When you are competing with President Museveni, you are going to be fired with teargas and arrested; your supporters are also going to be tortured. Can I be assured, Mr Speaker, that people of this discipline can actually implement a competition law? They do not want competition in politics, but they now want businessmen to compete fairly.

Can the mover of this Bill tell us that this indiscipline of an NRM company not paying taxes in 2001 and the NRM government firing tear gas at the Opposition is not going to be replicated in business?

Remember on nomination day, I was supposed to drive the FDC presidential candidate to Namboole, but he was kidnapped by police. I looked for him and they told me he had arrived without shoes.

Hon. Kyagulanyi was also teargassed from his home to Kyambogo. Can people with this practice now tell the country that they are bringing a law to regulate fair competition and they do not want bad mergers?

THE DEPUTY SPEAKER: Honourable minister, you need to give Hon. Ssemujju a guarantee that you will not swallow FDC. I can see his major fears are those of being swallowed politically.

12.09

MR NATHAN NANDALA-MAFABI (FDC, Budadiri County West, Sironko): Thank you, Mr Speaker. It is good for the competition law to be brought here; even the consumer Bill is urgently needed. I do not know if it does us harm to put some sections here.

When Hon. Iningoma was speaking – you know he was in the East African Community - he knows what he is talking about. When he talks about fuel, he knows how managers have come to be, but he has left out others. Those big ones were also swallowed by other bigger ones, when they came into the market. Of course you remember how Chevron swallowed Caltex and shortly Caltex was swallowed by Total. I can tell you there are many others and it is mostly because of mergers.

My biggest interest in this law is Government entering the business and wanting to make agreements that favour them. That is very dangerous. That is a matter we should deal with because the moment you allow Government to enter the business, like Hon. Ssemujju has said, they will not pay taxes, but they will want to compete with us who are paying taxes. This law should not accept any agreement which is entered into by the Government for the purpose of doing business like any other normal business person.

The establishment of a commission is a good idea, but it will take time to establish one. We have an Equal Opportunities Commission, which deals with equality. I propose that the Equal Opportunities Commission leads this – *(Member timed out.)*

Mr Speaker, give me one minute to conclude.

THE DEPUTY SPEAKER: Please, conclude.

MR NANDALA-MAFABI: We have all been in business and we have survived being swallowed, but we have burnt our fingers so you know what I am saying. The Equal Opportunities Commission should be tasked - if you are talking of an executive director, you can have two separate departments to manage; human resources and business. This will go a long way. However, if you are seeking to establish one, and yet we are saying we must close commissions and enterprises that have so many authorities, it will be very difficult sometimes to sell this to the Executive because they will say that it is not possible.

In conclusion, we are mostly talking about marketing, but we have not emphasised the producers. One of the main problems are these small producers; we should make sure that we deal with them in this law.

What is happening among producers? I will give you an example; farmers are contracted and these people come with cheap seeds. They tell you to sign a contract or you will not sell your produce anywhere; whether the price goes up or not. We want such agreements - if you give me seeds, treat them as a loan. When I sell my produce, I can pay your loan, other than coming to tie me down on my own produce and I become your labourer. This is quite dangerous and it is causing poverty in Uganda, unless we address it in this competition law. I thank you.

THE DEPUTY SPEAKER: Attorney-General, when we finish this law - the playing field when you are doing business with Government is where the biggest concern is. A very recent example is the President's recent directive on advertisements for UBC. He said that all adverts should be given to UBC. If we have this law, I hope we shall respect it and be serious.

Honourable minister, when you were giving licences for rice to a few people - this will have to stop. *(Applause)* This has been my fear with the Ministry of Trade, Industry and Cooperatives being the one supervising and implementing. The bad practices are coming from the trade ministry; this is where the fear is.

12.14

MR HASSAN KIRUMIRA (NUP, Katikamu County South, Luwero): Thank you Mr Speaker. I thank the able leadership of the committee for that wonderful report. I was particularly intrigued with the fact that they mentioned that the ministry has a wider mandate. The issues of regulating trade are crosscutting - *(Interruption)*

MS OPENDI: Mr Speaker, there is not appearing on the list, but also being a member

- I have been told he is a member of the committee.

THE DEPUTY SPEAKER: Committee chairperson, is this your member?

MR KIRUMIRA: I do not appear on the list, Mr Speaker.

MR SSEMUJJU: Mr Speaker, he is a member of the committee.

THE DEPUTY SPEAKER: Honourable colleagues, whether you sign the report or not, as long as you are a committee member, you are deemed - but at the committee stage, I will allow you to submit because it is limited to the report.

12.15

MR ALLAN MAYANJA (NUP, Nakaseke Central County, Nakaseke): Thank you, Mr Speaker, for the opportunity. According to the report, in 1998, this competition Bill was not enacted. Let me hope that, for the first time, the President will assent to this law. The reason I am bringing this is that the investors the President always promotes are the ones affecting the business environment. They are swallowing our indigenous businesses.

Therefore, we need to get confirmation from the Minister of Trade, Industry and Cooperatives that this time the President will assent to Bill.

Secondly -

THE DEPUTY SPEAKER: Honourable member, this is a Government Bill.

MR MAYANJA: Mr Speaker, even last time the Bill was from the Government. Secondly, it is about the Bill administration. It talks about an independent self-financing commission. My concern is about the name "independent." Let me hope that this time, the commission will be independent and execute its responsibilities because most of the commissions and authorities are being influenced. At the end of it, they fail to execute their duties. Thank you.

12.17

MS BRENDA NABUKENYA (NUP, Woman Representative, Luwero): Thank you, Mr Speaker. I want to thank the committee for a substantive report. My issue is on the division of responsibility now that we are discussing the Bill.

Originally, the autonomous sector regulators had duty to regulate in their own sectors. However, we are now going to have a national law under a commission if it is assented to. I want to understand; will they lose this mandate to the Commission or they will still have it because of their technical knowledge? For instance, UCC and Bank of Uganda have their mandate. What happens when this law comes into place? Do these autonomous sector regulators lose their mandate or work hand in hand? We need to be very clear because at a certain moment, you might see collision. Thank you.

12.18

MS AGNES AMEEDE (Independent, Woman Representative, Butebo): Thank you, Mr Speaker. I thank the committee for the report. If this Bill is passed into law, my wish is that it causes review of the government liberalisation policy.

When Hon. Bahati was the Minister of State for Finance, Planning and Economic Development, I used to ask him about our liberalisation policy in the corridors. As it stands, it looks like liberalisation in Uganda meant total deregulation.

We have many foreign goods flooding our markets and edging out our local traders. Perhaps, this will cause another conversation to cause policy for the Government to support local companies. I think you have heard sentiments from many commentators that the economy is owned by foreigners. How do we support local businesses?

The other issue is about quality. How do we support Uganda National Bureau of Standards to enforce quality and consumer protection? Those were my concerns for this report.

THE DEPUTY SPEAKER: Thank you. Sergeant-at-Arms, let the committees that are sitting stop and join us. Whips, let all Members who are in the corridor come in. I want the Clerk to ascertain quorum as we continue.

12.20

MS AGNES ATIM (NRM, Woman Representative, Amolatar): Thank you, Mr Speaker. I would like to thank the committee for a good report. I have three issues. One, we are aware that we live in a liberalised economy where supply and demand are the drivers of our markets. I wonder how this Bill is going to level that playground. If there are any plans that I am yet to see in the Bill, how will this be addressed?

Secondly, I am concerned about the social sectors, including education and health, as well as agriculture. These are sectors that are already struggling, competing with all the big forces around. I want to be comforted that this Bill is going to consider the struggling efforts of some of these social sectors. My colleagues have given very good examples of what mergers have done to some of these.

Mr Speaker, I draw your attention to page 19, where we are coming up with mergers, acquisitions and joint ventures. However, the committee is not coming out clearly on how this is going to protect some of the small scale farmers. If we are going to legislate right now and enact this Bill, I am wondering how my small farmer or school operator in my village in Amolatar, is going to be able to compete favourably with some of these big farms that are coming.

These are concerns that we have to seriously look into as we –(*Member timed out.*)

12.22

MR DICKSON KATESHUMBWA (NRM, Sheema Municipality, Sheema): Thank you, Mr Speaker. I want to add my voice in thanking the committee for the job well done. First, this Bill is long overdue. Finally, I believe that it is going to help us resolve most of the challenges we have seen that are curtailing investment and trade.

I support the idea that the ministry cannot regulate. Even the idea of having a commission, in my opinion, you could even raise it to a tribunal. We have seen the successes of the Tax Appeals Tribunal.

We need a body that has powers of the High Court because matters of trade internationally are very sensitive. They can lead to the collapse of an economy and loss of jobs. Therefore, we do not want to dilute the regulator's mandate. The ministry cannot regulate the Government, as we have heard.

We have talked about prohibited practices, for example, this Bill should also include malicious whistleblowing and false practices. We have seen in this country where big corporations, in order to bring down others, label malicious accusations. Sometimes, you find government agencies descending on another company - going through a lot of stress. At the end of the day, it was intended to destroy the company.

So, among the practices that should be prohibited, we should make sure that we include that component.

The other issue is about the dominant position. The dominant position you are trying to regulate is in respect to an enterprise. We are talking about a dominant position, sometimes by government. If you have a state corporation that is very dominant and will not leave space for the private sector, it must be regulated.

My opinion is that we extend the definition of a dominant position to go beyond covering an enterprise to also cover government, so that we are able to curtail discriminatory practices that may be causing bad competition. For example, government giving out discriminatory incentives to one business against the other is opposed to a sector.

Even when it comes to issues of, let us say payment. We know that the Government has got many arrears. However, what criteria do you have to pay X and leave out Y if they have all submitted the invoices and the Government owes them? We must be able to expand the definition of dominant position;

cover dominance by Government to ensure the private sector is not curtailed.

THE DEPUTY SPEAKER: Thank you. Hon. Okwalinga, Hon. Angura and then Hon. Chemonges.

12.25

MR SIMON PETER OKWALINGA (NRM, Kanyum County, Kumi): Thank you, Mr Speaker. I would like to thank the committee for coming with a good report. My concern relates to the issue of forming an authority.

At the moment, our economy is not doing well. We are trying to narrow down the administrative cost of Government. Therefore, by advocating for a commission or an authority, we are stretching the administrative expenditure of Government. Looking at the circumstance, I think we should find ways of accommodating the issues that are being raised in this Bill.

There is an issue of the smaller entities; emerging businesses being consumed by others. I think there are factors that relate to the quality of the product that is produced. If you come up with a product that has low standard, automatically, you will be consumed by the bigger one that has high quality. So, we cannot, therefore, protect the low quality product vis-à-vis a high level one.

Mr Speaker, it is about talent. One should engage in a business they are naturally talented; one with natural advantage against others. If you gamble – *(Member timed out.)*

THE DEPUTY SPEAKER: Procedure?

MR NANDAL-MAFABI: Thank you, Mr Speaker. We are talking about the law for fair competition. Fair competition means there are weaker and stronger ones. In the end, the weaker ones become stronger so they can compete overtime.

Is it procedural right, for the Member to speak with a very big voice – *(Laughter)* - that he does not want weak local companies here to grow, but promote those coming from outside

with superior knowledge and technology and will eventually take over the weaker ones? Is he proceeding very well?

THE DEPUTY SPEAKER: Thank you. Hon. Okwalinga's submission was looking at the standards.

We have a lot to do with standards, but this law is for competition where we are saying even small companies can produce quality products. The issue of standards does not apply here. By the way, it is big companies that produce fake products because they have the capacity. Here, we are on competition.

Honourable colleagues, the debate is limited to the principles and objectives of the Bill. Limit yourself to competition. Small companies should also be protected.

MR OKWALINGA: Mr Speaker, I agree with you. The point I was trying to push is about quality.

THE DEPUTY SPEAKER: There is a law on standards and so the issue of standards is misplaced.

MR OKWALINGA: If we are pushing up for protection for a fair competition within the market - definitely, that is how our economy has been designed. We have been designed in a manner that is liberal enough to allow everybody to join the market.

Mr Speaker, there is a tendency of people copying and pasting.

THE DEPUTY SPEAKER: Honourable colleague, at this stage, the question is: do you agree with the Bill or not?

MR OKWALINGA: I agree with the Bill.

THE DEPUTY SPEAKER: Very good.

MR OKWALINGA: Thank you.

THE DEPUTY SPEAKER: Hon. Angura and then Hon. Chemonges.

12.30

MR FREDRICK ANGURA (NRM, Tororo South County, Tororo): Thank you Mr Speaker. I would like to thank the committee for the presentation.

The minister said there are over 8,000 industries in the country. If an assessment is done on these industries, you will find many of them nonfunctional.

We have a challenge I want to believe this time the Government will address. It is the challenge of fairness and giving many institutions a fair level ground of operation. Hon. Kateshumbwa talked about incentives like taxes holidays, but many of these institutions that enjoy economies of scale have come here and swallowed our small industries, for instance the beverage industry.

Many of these institution where some of us pick products together with them enjoy facilities that are not given to us, and so, in the end, we are swallowed. This is not fair. How I wish during licensing some of these entities and institutions that come here, they are encouraged to invest in areas which are new. That in turn will encourage us to work hard, be able to compete amongst ourselves and enable growth.

Mr Speaker, some of them come and look for areas that local communities have already settled for; they only come with new technologies and investments which end up swallowing us up. I hope this law will support us in that area.

THE DEPUTY SPEAKER: Procedure from Hon. Isingoma.

MR ISINGOMA: Thank you, Mr Speaker. I rise under Rule 83 of our Rules of Procedure. The rule says when a Member is speaking, the rest of us should be quiet and listen.

Are we proceeding well for Hon. Erios Nantaba to commence another meeting within this House when a Member is on the Floor?

THE DEPUTY SPEAKER: Honourable colleagues, let us listen to one another. When you hold the microphone, you want to be heard. So, the way you want to be heard is the way you should be able to listen to others. Thank you. Let us try to proceed well.

12.33

MR WILLIAM CHEMONGES (NRM, Kween County, Kween): Thank you, Mr Speaker. I would to support this Bill because this is affecting the daily activities we go through.

THE DEPUTY SPEAKER: Honourable colleagues, can I have order in the House. If you are interested in doing other business, go to the corridors; laugh, play and massage. *(Laughter)*

MR CHEMONGES: Mr Speaker, I raise to support the Bill because I am a businessman. I have listened to Members; I have also gone through the report and it is one of the report I have interest in.

It is true this law is very urgent to our country because there are very many big companies that come and compete with various smaller companies. So, this law will be able to guide us on what small and big companies should do.

Mr Speaker, if a company like ROKO applies for a project of Shs 100 million, it will mean a small company will not compete favorably. Recently, we have seen the Government bring UPDF to do construction with totally different conditions. We have been going through the procurement process, but this one *—(Member timed out.)*

THE DEPUTY SPEAKER: Thank you. Hon. Kyooma, Hon. Ruhunda, Hon. Feta and Hon. Nsereko.

12.35

MR XAVIER KYOOMA (NRM, Ibanda County North, Ibanda): Thank you, Mr Speaker. I take this opportunity to thank the committee for the report. I add my voice to what

Hon. Kateshumbwa has submitted. In addition to the commission, there is a need for a tribunal. In the committee report, they actually provide for an appeal in case one of the businesses is aggrieved. The right place to appeal would be the tribunal. Let me hope the Attorney-General will agree with us because in the Executive's Bill, they provided for the ministry to handle it, while the committee suggests a commission, which I am in support of.

The intention of this Bill is not to do away with competition, as contained in the committee report, but rather to foster it and to ensure fair and perfect competition. In my understanding, it is not an issue of a small business enabled to outcompete a big business. If that is the case, we are getting it wrong; it is to provide fair competition.

This was biologically done; two organisms were put in the same environment, given the same conditions and after some time, one of them died. In another experiment, two organisms were put in different conditions, and all of them survived. It ended up being applied in business *—(Member timed out.)*

THE DEPUTY SPEAKER: Switch on your microphone and conclude.

MR KYOOMA: It is called "strategic competitive competition."

THE DEPUTY SPEAKER: Thank you. I only allowed you to conclude that point for the *Hansard* to be complete.

12.35

MR ALEX RUHUNDA (NRM, Fort Portal Central Division, Fort Portal City): Thank you, Mr Speaker. I am glad that you suffered, like some of us, because we tried our level best to do business locally. I will give two instances; I tried the electronic business and there was a sole distributor here in Kampala from India; an Indian. When we opened the branch in Fort Portal, they saw the volumes going up. What did they do? We saw another Indian coming and opening up the same business.

To worsen the matter, this other Indian was given lower prices and long term credit, but we were given high prices. So, we could not compete. At the end of the day, we had to close the business.

The same applied to the phone business. When you look at how the local entrepreneurs are being squeezed by these big multinational companies, it is a shame. I had nowhere to run to be protected. I hope this law is going to protect Ugandans, especially those who are in the entrepreneurship business.

I thank the committee. Being a young dynamic man who is chairing the committee, you are going to support these young traders; the youths who are trying to survive in a very hostile market.

Lastly, it is really important that a tribunal – *(Member timed out.)*

THE DEPUTY SPEAKER: Thank you. Honourable colleagues, of course, there are things we wish for, but there are some nationalities - without mentioning who they are - when you work with them, that is when you come to know how doing business in Kampala is difficult. There is a certain nationality; when you employ your purchasing officer from that nationality, you are assured of 5 to 10 per cent discount, based on colour or nationality. I can tell you that for a fact because there are some businesses we do.

I asked someone, “How do you break even with these prices?” The person told me, “Employ a person from this nationality and you will be assured of a 5 to 10 per cent discount when he purchases goods on your behalf.” We had to do it that way. We saw things change and we were able to compete. If the mark-up is around 10 per cent and you are guaranteed a 10 per cent discount based on nationality, then I would rather get that person; I give him a salary and he helps me get it. We shall need to go deeper to change the culture of doing business in this country.

12.40

MR GEOFFREY FETA (NRM, Ayivu Division East, Arua City): Thank you, Mr Speaker. I join my colleagues in thanking the committee for a very good report. Honourable colleagues, the absence of this law has made the famous Arua boys disappear from business. The gist of the matter -

THE DEPUTY SPEAKER: Even in football, you are no longer – *(Laughter)*

MR FETA: There is fair competition - we do football, but not the other one.

THE DEPUTY SPEAKER: Onduparaka F.C is no longer that -

MR FETA: For instance, the supply chain challenges are; a manufacturer establishes a wholesale shop in Arua and he gives you goods at wholesale. However, he is selling at the same price you are selling, and yet you are incurring transportation costs from the production plant to Arua. The same producer also puts up a retail shop in a village in Terego. How do you compete with this person? *(Applause)* This is why I think the committee has produced a very good report and I support it. Thank you.

12.42

MR MUHAMMAD NSEREKO (Independent, Kampala Central Division, Kampala): Thank you, Mr Speaker. I would like to thank the committee for the job well done. Honourable members, what is the rationale of this law?

First of all, the rationale of this law is to mainly protect the consumer from; private to private monopolistic and unfair competition. You realise that when this law was enacted in the early 1920s in the US, it was about the monopolistic cartels that were fixing prices; for example, fuel pump prices.

The role of this law, by creation of this commission, is to check the excesses in a liberalised economy, where private players come together and fix prices for their own benefit. For example, retailers and wholesalers

of fuel set a price, where a consumer cannot find any help. Remember this happened just recently. We were all yearning for what would happen. This is the solution; the creation of a competition commission to fix exactly this.

Where else does it happen? It happens in insurance companies, banking, and mainly the service sector, for example, telecoms. That is why you need this regulator to come up and protect the consumer.

Secondly, the Government gives unfair favours - favouritism - to create an unfair playing ground - For example, you consider someone who borrows capital cheaply, comes in the name of an investor or as they and is given a tax holiday. After being given a tax holiday, he is given free land. That is unfair competition. That is where we invite – *(Member timed out.)*

THE DEPUTY SPEAKER: Conclude, honourable. You are the Member of Parliament for most of these traders.

MR NSEREKO: Thank you. One is private to private through the creation of cartels and monopolistic competition. The other one is through government favouritism; giving favours to particular individuals or companies and investors moving from another country to outcompete those that are here.

Finally, in the supply chain management, where someone has talked about - you find that the manufacturer doubles as the manufacturer, the wholesaler and the retailer. That is what we call “institutionalised unfair competition.”

In sports, for example, you have clubs that are sponsored by government entities competing with private players. These ones are harnessing from the Consolidated Fund to buy players in sports competitions, and others are drawing from their own pockets.

This unfair competition is what gave rise to fair competition laws in sports. For example, you heard about that in the Premier League – I am sorry to say I will not talk about Manchester City. Although they are champions, they are

struggling with the matter of drawing money from private funding of assets of owners and not using company profits. That creates an imbalance in the competition market and it definitely tilts the balance of power in competition.

Mr Speaker, this law is much welcome. That is why when you go to purchase some goods from different supermarkets, you find prices are low here while in the other supermarkets, the prices are high. Why? It is because some are not paying tax, while others are paying tax. The reason why companies like Nakumatt – *(Member timed out.)*

THE DEPUTY SPEAKER: Thank you. Hon. Lulume?

12.46

DR MICHAEL BAYIGGA (DP, Buikwe County South, Buikwe): Thank you, Mr Speaker. I welcome this report and law. Once it is passed, it can create some sanity in the business environment.

Mr Speaker, I get attached to the submissions that once we have powerful and connected firms, this law will be in vain. As long as the Government continues to hobnob in the business environment – favours others, gives tax waivers and permits certain firms to have privilege over others – we shall have wasted our time.

This commission, which is being established in this Bill, ought to be powerful enough to establish control over those who are accessing funds from the Government. We also need to examine the firms within the business environment. Who are the directors of the firms? Where do they access capital and how do they interact with the State? As long as the State is involved with them and favours them, then, this law is going to be in vain.

However, I thank the committee for the report.

THE DEPUTY SPEAKER: Thank you. Honourable colleagues, let us continue with the debate at Committee Stage. We are going

to go through the clauses and I am going to be allowing you to come in with interventions.

There are procedures on Bills that we have to observe. Honourable colleagues, the Clerk has just informed me that we have 189 Members, both physical and online. So, we have quorum to proceed to the second stage.

I need another motion because we were debating the report. I need to call the minister. Clerk, please, call the question for second reading.

You see, honourable colleagues, the first motion was on the report. After ascertaining quorum, the minister must, again, move a motion for the second reading.

BILLS SECOND READING

THE COMPETITION BILL, 2022

THE DEPUTY SPEAKER: Honourable minister?

12.49

THE MINISTER OF STATE FOR TRADE, INDUSTRY AND COOPERATIVES (INDUSTRY) (Mr David Bahati): Mr Speaker, I beg to move that the Bill entitled “The Competition Bill, 2022” be read the second time.

THE DEPUTY SPEAKER: Is it seconded? *(Members rose)* It is seconded by the Attorney-General, Hon. Kirumira, Hon. Mayanja, Hon. Komakech, Hon. Nsereko, Hon. Olanya, Member for Hoima, Hon. Angura and Prof. Mushemeza.

Honourable colleagues, I now put the question that the Competition Bill, 2022 be read the second time.

(Question put and agreed to.)

BILLS COMMITTEE STAGE

THE COMPETITION BILL, 2022

Clause 1

THE DEPUTY CHAIRPERSON: Committee chairperson?

12.50

THE DEPUTY CHAIRPERSON, COMMITTEE ON TOURISM, TRADE AND INDUSTRY (Ms Catherine Lamwaka):

Clause 1: Application

Clause 1 is amended -

a. By substituting for subclause (1), the following-

“1. Application

1. This Act applies to all economic activities within or having an effect within Uganda.

2. This Act is binding to the Government in so far as the Government or an enterprise owned wholly or in part by the Government, engages in trade or business for the production, supply or distribution of goods or the provision of a service within a market that is open to participation by other enterprises.

b. In subclause (2) by deleting the word “and” appearing in paragraph (a) at the end of the sentence and substituting for paragraph (b), the following -

c. This Act does not apply to -

(b) concerted conduct designed to achieve a non-commercial socio-economic objective or similar purpose.

(c) By inserting immediately after paragraph (b), the following new paragraphs-

“(c) an agreement or conduct relating to intellectual property rights, including the protection, licensing or assignment

- of rights under or existing by virtue of law relating to copyright, design rights, patents or trademarks;
- (d) an agreement relating to the remuneration terms or conditions of employees and to which employers are a party;
- (e) activities of a trade union and other associations directed at advancing the terms and conditions of employment of members;
- (f) The business of any enterprise exercising a statutory monopoly that precludes the entry of another enterprise into the relevant market in Uganda except that –
- (i) the enterprise shall not enter into an agreement that has the purpose of restricting competition
 - (ii) the conduct of the enterprise shall not, by itself or in conjunction with another enterprise, amount to an abuse of a dominant position; or
 - (iii) where the enterprise is desirous of entering into a merger, acquisition or joint venture, the enterprise shall be in compliance with the provisions of this Act relating to mergers, acquisitions and joint ventures.
- (g) By substituting for subclause (3), the following -

“Notwithstanding subsection (3), the Commission may apply the provisions of this Act to an agreement or conduct where it has reasonable grounds to believe that the agreement or conduct involves a practice that is prohibited under this Act or disproportionately restricts or prevents competition.

Justification

- a. The substitution in sub-clause (1) is to provide for a wider scope of applicability of the Act for all economic activities which may have an adverse effect on

competition in the Ugandan market.

- b. The substitution in sub-clause (2) is to provide for specificity in as far as exemptions are concerned since the provision which was prescribing the exemptions of any sovereign function from application of the Act was ambiguous and subject to misinterpretation.
- c. The substitution in sub-clause (3) is to provide for powers of the Commission to investigate any practice even when exempted under the Act where the Commission has reason to believe that an enterprise is engaging in an anti-competitive practice.
- d. The practice in the COMESA and the East African Community is that governments of partner states are not exempted from the application of the competition law when conducting business in the same market.

THE DEPUTY CHAIRPERSON: Thank you. Honourable minister?

MR BAHATI: Mr Chairperson, I concur with the amendment of the committee.

THE DEPUTY CHAIRPERSON: Thank you. Honourable members, we are widening the scope. Attorney-General, do you have anything to say on widening the scope?

MR KAFUZI: Mr Chairperson, while I want to concur with most of the proposals, there is a word used in sub-clause (3); “Commission” that should be replaced with the word “minister”. It will read: “Notwithstanding sub-section (3), the minister may apply the provisions of this Act to an agreement or conduct...”.

While the committee chairperson proposes “Commission”, my proposal is that the word should be “minister”.

THE DEPUTY CHAIRPERSON: Honourable colleagues, the Attorney-General

is saying that there is a clause where the committee is proposing to have a Commission but we have not reached that stage. This would come as a consequential amendment. In case we agree on the Commission, I do not see any harm.

Since we have an issue with it and if that is the only issue, we can stand over it. When we conclude later, we shall come to it as a consequential amendment. However, let us get the submission of Hon. Nandala-Mafabi.

We can stand over the whole clause and when we come back, we shall address your concern.

MR NANDALA-MAFABI: Mr Chairperson, I agree with you. However, the moment you use many words, you are going to create danger. What do we want? An application. Where is it applicable? We are saying it must be applicable to everybody, including the Government so long as it is coming as competition in business.

Two, if there is a state enterprise they want to create to run its own business, they should bring an Act of Parliament here. The moment you start bringing a minister here - You talked about rice; you are bringing rice orders.

I would advise that even in its current state, the minister should not have any leeway to be giving letters for this. *(Applause)* The law should be for fair competition. If the minister wants anything, they should make their business and bring a Bill here for an Act of Parliament to authorise an entity to deal with it. I want to put everybody on notice.

THE DEPUTY CHAIRPERSON: Since you have not proposed an amendment in that line, let us stand over it. Members, we have agreed to stand over this because there are some consequential amendments that will come at the end. Let us move. We shall come back to the same. We cannot now discuss this satisfactorily before we complete the Bill.

Clause 2

THE DEPUTY CHAIRPERSON: Committee chairperson?

MS CATHERINE LAMWAKA: Mr Chairperson, there is a new clause; the object of the Act before clause 2.

Insert a new clause immediately after clause 1 as follows –

The objective of this Act is to –

- a. promote the efficiency, adaptability and development of the Ugandan economy;
- b. provide consumers with competitive prices and product choices;
- c. promote employment and advance the socio-economic welfare of Ugandans;
- d. provide opportunities for the participation of Ugandans in world markets and recognise the role of foreign competition in Uganda;
- e. guarantee that all enterprises have an equitable opportunity to participate in the economy.

Justification

To provide for objectives of the law in relation to competition.

THE DEPUTY CHAIRPERSON: Honourable minister?

MR BAHATI: I agree with the proposed amendment of the committee.

THE DEPUTY CHAIRPERSON: Attorney-General, do you have an issue on this?

MR KAFUZI: No, I concede. *(Mr Nandala-Mafabi rose)*

THE DEPUTY CHAIRPERSON: Is it on the objective?

MR NANDALA-MAFABI: Thank you very much, Mr Chairperson. Sub-clause (b), if the committee allows, is to provide “consumers and producers”. If you are looking at only a consumer, you are looking at the end price. What about the producer? I would like to ask the committee to amend this because you are talking of employment. Let it read, “To provide consumers and producers with competitive prices and product choices.”

MR BASALIRWA: Thank you, Mr Chairperson. We will need to look at the definition of consumer in the Bill to see whether it addresses the concerns of Hon. Nandala-Mafabi. I think it is important that you look at the two.

THE DEPUTY CHAIRPERSON: That would mean standing over clause 2 again. A clause to do with definitions is one I would want to handle at the end when we have already captured the whole principle. It is going to distract us.

MR NANDALA-MAFABI: Mr Chairman, I agree, but when you look at the current draft Bill, a consumer means a person who buys goods or services or who intends to buy goods or services and the end user of those goods and services.

However, you are only protecting the consumer, but not the producer. My argument is that we should protect both the consumer and the producer.

THE DEPUTY CHAIRPERSON: Committee chairperson, is that okay? Attorney-General, do you want to guide on the same?

MS CATHERINE LAMWAKA: Mr Chairperson, on that, we agree.

THE DEPUTY CHAIRPERSON: You agree with the proposal by Hon. Nandala-Mafabi. I now put the question – Hon. Kirumira?

MR KIRUMIRA: Thank you, Mr Chairperson. I believe that the issues of Hon. Nandala-Mafabi, when it comes to the producers, are catered for within that clause. In any way –

THE DEPUTY CHAIRPERSON: Where are they catered for? Tell him.

MR KIRUMIRA: We are also consumers of raw materials so if we change that particular clause, it will mean we have gone to the beginning and it will change everything. Thank you.

MR NANDALA-MAFABI: Mr Chairperson, a consumer consumes the end product while a producer produces for the consumer. This is why we are saying we should protect both the producer and the consumer and the committee has agreed to deal with it. When we go to the definition, we shall define both the producer and consumer.

MS OPENDI: Mr Chairperson, I would like to agree with Hon. Nandala-Mafabi. A consumer is defined as a person who is the end user and this Bill’s remedy is to avoid certain activities in the market that hurt business.

When you are talking about businesses or consumers - business majorly encompasses producers. Therefore, I would like to propose that you put the question to the amendment proposed by Hon. Nandala-Mafabi.

THE DEPUTY CHAIRPERSON: Honourable members, (e) is general. The moment you mention a consumer, you have to be specific of the producer.

Honourable colleagues, please allow me to do my work. I woke up very early to prepare for this so if you start giving me words, you will confuse me.

I now put the question that a new clause, as amended, be inserted in the Bill.

(Question put and agreed to.)

New clause inserted.

Clause 2

THE DEPUTY CHAIRPERSON: Clause 2 is interpretation, but I prefer that we handle

interpretation after we have gone through the whole Bill.

Clause 3

MS CATHERINE LAMWAKA: Replace the sub-title with the following:

Part II - Competition and Consumer Protection Commission.

Clause 3 is amended by substituting with the following –

“3 Establishment of a Competition and Consumer Protection Commission.

1. There is established a Competition and Consumer Protection Commission of Uganda;

2. The Commission shall be a body corporate with a perpetual succession and a common seal and may sue or be sued in its corporate name and may enjoy or suffer anything that may be done, enjoyed or suffered by a body corporate;

3. The Commission shall consist of the following persons who shall be appointed by the President with the approval of Parliament:

4. - Chairperson who shall be a person with at least 10 years of experience and knowledge in competition and consumer protection matters, trade, economics, business administration or law, nominated by the President;

a. a deputy chairperson who shall be a person with at least 10 years of experience and knowledge in matters relating to competition and consumer protection, nominated by the President;

b. a commissioner in charge of trade within the ministry or his or her representative;

c. one person nominated by the private sector;

d. - one person nominated by trade unions;

e. - two persons with at least five years' experience in the field of competition and consumer protection nominated by the President.

5. Members of the Commission shall be persons of high moral character and proven integrity and possesses considerable experience in and a record of committed commitment to matters relating to the promotion of competition or consumer protection.

6. Independence of Commission

The Commission shall, in the exercise of its functions, be independent and shall not be subject to the direction or control of any person or authority.

7. Seal of the Commission

I: The seal of the Commission shall be-

(a) - in such form as the Commission may determine;

(b) - applied in such circumstances as the Commission may determine, subject to any written law; and

(c) - kept under the custody of the Secretariat.

II: - Judicial notice shall be taken on the seal of the Commission and any documents sealed with the seals shall be admissible in evidence.

9. Tenure of office of members of the Commission

(1) A member of the Commission shall hold office on a full-time basis for four years and be eligible for reappointment for one more term;

(2) A member of the Commission may, at any time, resign his or her office in writing addressed to the President;

- (3) A member of the Commission may be removed from office by the President –
- a. for inability to perform the functions of his office arising out of infirmity of body or mind;
 - b. for misbehaviour or misconduct;
 - c. for incompetence;
 - d. where the member is absent without prior communication to the chairperson for more than four consecutive meetings of the Commission or is absent from Uganda for more than 12 consecutive months;
 - e. where the member is or becomes bankrupt or insolvent; or
 - f. where the member is convicted of an offence involving dishonesty, fraud or moral aptitude.
- (4) A member of the Commission shall not be removed from office –
- a. Under paragraph 3(a) unless the medical board certifies that the person concerned is unable to perform the functions of the Commission;
 - b. Under paragraph 3(b) to (d) unless the person concerned is notified in writing and given an opportunity to defend himself or herself.
- (5) Where a member is removed from the office under this section, the President may appoint another person in accordance with Section (5) to replace the member and the person appointed shall hold office for the remainder of the term of the member removed.
- (6) Where a member is removed from office under this section, the member shall continue acting in that office until another member is appointed.
- (7) Remuneration and Allowances of members of the Commission Emoluments of the members of the Commission shall be prescribed by Parliament and shall be a charge on the Consolidated Fund.
- (8) Functions of the Chairperson of the Commission
- (I) The Chairperson of the Commission shall;
 - a. be the head of Commission;
 - b. preside over as chair or chair all meetings of the Commission;
 - c. be responsible for the general direction of the affairs and administration of the Commission; and
 - d. monitor and supervise the work of the Secretariat.
 - II. The Vice-Chairperson shall deputise the Chairperson and perform such other functions as the Chairperson or the Commission may assign.
- (9) Members of Commission to relinquish offices
- MR NANDALA-MAFABI:** Mr Chairperson, wouldn't it be procedurally right that we first agree whether we need a Commission or not? From there, we shall then agree on how to move and maybe start defining how it should be put in place. Therefore, wouldn't it be procedurally correct that we first take a decision on whether we want a Commission or not?
- THE DEPUTY CHAIRPERSON:** The most critical matter is whether we need the Commission or not. Honourable colleagues, we can allow the chairperson to finish; let us handle it the way we did with the Employment (Amendment) (No.2) Bill, 2022, where we handled Part IV of the Bill and allowed the chairperson to read and then at the end, we go clause by clause before we adopt everything.
- Honourable colleagues, let us allow the chairperson to present everything to do with the commission. In fact, you might find, in the subsequent parts of the clause she is

introducing, that she is able to justify the need for the commission. Otherwise, just saying the commission alone - Members may not have information about what this commission is. The moment she provides all details, we will be able to know whether we need the commission or not. I hope that is okay, Hon. Nandala-Mafabi.

MS AISHA NALULE: Thank you, Mr Chairman. Whereas you have guided, those of us who think we do not need a commission actually switched off at that time so, we did not follow the other details that she explained.

If we lose on the question of whether the commission should be there or not, we shall follow. It is important for us to determine whether we shall have a commission or not so that we can follow her throughout the debate.

THE DEPUTY CHAIRPERSON: Honourable members, please, it is not in order for any Member to switch off because they do not agree. *(Laughter)* In Parliament, we listen to those we agree with and those we do not agree with. If we switch off, we might end up providing massages and causing more trouble. *(Laughter)*

Hon. Komakech, please, ensure that Hon. Aisha does not switch off. I have given you that assignment. *(Laughter)*

Honourable committee chairperson, continue.

MS CATHERINE LAMWAKA: Thank you.

“9. Members of the commission to relinquish offices

(1) A person holding any of the following offices shall relinquish that office on appointment as a member of the Commission –

(a) a Member of Parliament;

(b) a Member of the East African Legislative Assembly;

(c) a Member of a local government council;

(d) a member of the executive of a political party or organisation at all levels; or

(f) a public officer.

(2) This provision shall not apply to the commissioner in charge of trade or his or her representative.

10. Secretariat of the Commission

The Commission shall have a secretariat headed by an Executive Director who shall be appointed by the minister on the recommendation of the Commission on terms and conditions specified in his or instrument of appointment.

11. The Executive Director

(1) The Executive Director shall be the accounting officer and chief executive officer of the Commission and a full-time employee of the Commission.

(2) The Executive Director shall be a person of high moral character and proven integrity, who has qualifications and experience in competition and consumer protection matters, economics, trade or law.

(3) A person shall not be appointed Executive Director where he or she -

(a) is an undischarged bankrupt;

(b) Has been convicted of an offence under this Act or an offence involving fraud or dishonesty by any court in Uganda or elsewhere;

(c) has been convicted of an offence and been sentenced to imprisonment of six months or more by a court in Uganda or elsewhere; or

(d) is a public officer, a Member of Parliament, a minister or member of local government council.

12. Functions of the Executive Director

appointment for one more term.

- (1) Subject to this Act and the general provision and control of the Commission, the Executive Director shall –
 - (a) initiate and implement the policies and programmes of the Commission;
 - (b) be responsible for the proper management of the property of the Commission;
 - (c) manage the staff of the Commission;
 - (d) cooperate with lead agencies and organisations in matters related to the competition and consumer protection;
 - (e) develop an economic and cost effective internal management structure of the Commission;
 - (f) provide advice as required on all matters which fall within the area of the Commissions' responsibility;
 - (g) develop and oversee an operating plan to guide the Commission in performing its function; and
 - (h) perform any other duties necessary for the implementation of this Act as may be assigned to him or her by the Commission.
 2. The Executive Director is, in the performance of his or her functions, answerable to the Commission.
 3. The Executive Director shall be an *ex-officio* member of the Commission and Secretary to the Commission assisted by staff of the Commission who shall be appointed by the Commission on the terms and conditions specified in the instruments of appointment.
13. Tenure of office of the Executive Director
- (1) The Executive Director shall hold office for four years and is eligible for re-
2. The Executive Director shall cease to hold office where he or she –
 - (a) resigns;
 - (b) is declared or becomes insolvent or has made an arrangement with his or her creditors; or
 - (c) has been convicted of an offence and sentenced to a term of imprisonment for six months or more by a competent court in Uganda or outside Uganda without the option of a fine.
 3. The Executive Director may be removed from office for -
 - (a) abuse of office;
 - (b) inability to perform the function of his or her office arising from infirmity of body or mind;
 - (c) misbehaviour or misconduct; or
 - (d) incompetence.
14. Other officers and staff of the Commission
- (1) There shall be officers and staff of the Commission as may be necessary for the effective performance of the functions of the Commission.
 - (2) The officers and staff of the Commission shall be appointed by the Commission on terms and conditions as the Commission shall determine.
15. Protection from liability of members and officers of the Commission
- (1) An officer or member of the Commission or a person acting on the directions of the Commission is not personally liable for any acts or omission done or omitted to be done in good faith in the exercise of his or her functions under this Act.

- (2) An officer or member of the Commission shall not disclose any information, which he or she may have obtained while discharging his or her duties under this Act.
- (3) A person who ceases to be a member of the Commission or a member of the staff of the Commission shall not disclose any information which he or she may have obtained in the course of his or her employment for a period of ten years.
- (4) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding one hundred currency points or imprisonment not exceeding four years or both.
- (5) The Commission may engage the services of consultants, experts or advisers to assist in the discharge of its functions.
16. Meeting and procedure of Commission
- (1) The Commission shall meet for the discharge of business at least once in every three months at such time and place as the Commission may determine and the chairperson shall convene all the meetings.
- (2) The chairperson may, at any time, convene a special meeting of the Commission and shall convene a meeting within fourteen days if requested to do so in writing by at least three members of the Commission.
- (3) Except for a special meeting referred to in sub-section (2), notice of a meeting of the Commission shall be given in writing to each member at least fourteen working days prior to the date of the meeting.
- (4) The chairperson shall preside at every meeting of the Commission and in the absence of the chairperson, the vice-chairperson shall preside. In the absence of both the chairperson and vice-chairperson, the members present shall elect one of their number to preside at the meeting.
- (5) The quorum for a meeting of the Commission shall be three members and all decisions at the meeting of the Commission shall, as far as possible, be arrived at by consensus.
- (6) Where on any matter consensus cannot be obtained, the matter shall be decided by a majority of the votes of the members present and voting and in case of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his or her deliberative vote.
- (7) The Commission may invite any person who, in the opinion of the Commission, has expert knowledge to attend and take part in any discussion or meeting of the Commission on any matter with respect to which his or her advice is required but shall not have the right to vote at the meeting.
- (8) The Commission may act, notwithstanding the absence of a member or any defect in the appointment or qualification of a member or any vacancy, in the office of a member.
- (9) A member of the Commission who is in any way directly or indirectly interested in any matter before the Commission shall disclose the nature or extent of his or her interest at a meeting of the Commission and any disclosure made shall be recorded in the minutes of that meeting.
- (10) A member who makes a disclosure at a meeting of the Commission shall not participate in any deliberation or take part in any decision of the Commission with respect to that matter.
- (11) Subject to the provisions of this Act, the Commission may regulate its own procedure.”

Justification

The proposed amendment for the establishment of an independent commission is based on best practice across the globe and is the only effective means of implementing the law on Competition and Consumer Protection.

The Bill, under Part 2 and section 3, proposes that the ministry responsible for trade will be in charge of the administration of Competition and Consumer Protection in Uganda. According to clause 6 of the Bill, there is to be established by the minister, a technical committee, which shall be mandated to give technical guidance to the minister in implementation of the law – *(Interruption)*

DR NOAH MUSA: Thank you, Mr Chairperson. The procedural matter I would like you to rule on is about the Certificate of Financial Implications. I think there is a certificate issued against this Bill. The creation of this commission is going to bring a charge on the Consolidated Fund. I wanted to know what the implication on the certificate would be –

THE DEPUTY CHAIRPERSON: Honourable member, you are now debating the clause when they are still reporting. Rule 80; you are anticipating and she is still doing the work. Committee chairperson, please continue and finish.

MS CATHERINE LAMWAKA: Thank you, Mr Chairperson. On the justification;

- (b) The Bill, under Part 2 and section 3, proposes that the ministry responsible for trade will be in charge of the administration of Competition and Consumer Protection in Uganda.

According to clause 6 of the Bill, there is to be, established by the minister, a technical committee, which shall be mandated to give technical guidance to the minister in implementation of the law. If approved by Parliament, the proposal empowers the

minister to constitute the technical committee, provide for its functions, mandate, meetings, remuneration, etc. As such, this technical committee would be a creation over which Parliament has no say and yet established by the minister to advise and guide the minister.

The committee observes that this is the beginning of conflict in as far as implementation of the law is concerned and lack of capacity would be a creature of the law.

- (c) Whereas the committee is aware that the Government of Uganda has embarked on the rationalisation policy to merge ministries, agencies and departments as a means of effective governance and reduction of government spending, the proposal for a Competition and Consumer Protection Commission is a matter of ensuring service delivery, effective governance and increment of the non-tax revenue base. It is, therefore, in line with the objectives of government policy on rationalisation.
- (d) It is the considered opinion of the committee that the government's use of the rationalisation policy as a justification not to establish the Competition and Consumer Protection Commission, as was envisaged at the onset, is misconceived and anticipatory.

The proposal is distinguishable because the implementation of this law will be futile under the Ministry of Trade, given its mandate and issues of conflict of interest already envisaged.

- (e) According to several stakeholders that interface with the committee, issues of Competition and Consumer Protection are cross cutting in all sectors of the economy. As such, implementation of the law under the Ministry of Trade would amount to making the minister an overall regulator for all sectors of the economy on matters of competition. The minister responsible for trade would, therefore, be highly conflicted and not in position to effectively implement the law.

- (f) Further still, the available capacity in the ministry cannot effectively implement the very wide mandate of regulation of issues under the proposed Bill. As such, there is need to establish an autonomous body to implement the competition and consumer protection laws once enacted.
- (g) It is also pertinent to note that the COMESA rules on COMESA revenue sharing of merger filing fees envisages the establishment of a competition authority commission by each member state to which any monies due to member states is remitted.
- (h) According to rule 8 of the Common Market for Eastern and Southern Africa (COMESA) rules on COMESA revenue sharing of merger filing fees, the Commission retains 50 per cent of the Common Market Merger filing fees and is supposed to distribute the remaining 50 per cent among the relevant competition authorities in the designated member states.
- (i) The share of the Common Market Merger filing fees for each relevant competition authority in the designated member state is supposed to be proportionate to the value of the turnover in each member state, relative to the total value of the turnover in the common market.
- (j) Since 2013 when the COMESA Commission was established, Uganda as a member state has not claimed its entitlement under the rules of the COMESA revenue sharing of merger filing fees to this effect. Uganda is now owed approximately \$ 1.5 million.
- (k) The Competition and Consumer Protection Commission is intended to be the competition authority recognised under the rules on COMESA revenue sharing on merger filing fees so that Uganda can start benefiting directly. This money can be used to partly finance the commission as well.
- (l) Additionally, the Competition and Consumer Protection Commission shall be self-financing and shall be collecting merger filing fees, fines and penalties, among other funds. This will be a recognisable contribution to the Consolidated Fund. The establishment of this commission is urgent, serves to expand the government resource envelope and should therefore be supported.
- (m) Finally, an independent and autonomous establishment gives confidence to the entire economy, including investors. This importance should outweigh the government's plan to rationalise and promote independence and avoid conflict of interest in view of the mandate of the ministry responsible for trade.

The committee, therefore, implores Parliament to approve the establishment of the Competition and Consumer Protection Commission of Uganda.

MR BAHATI: Mr Chairperson, I thank the committee for the proposal of establishing a commission, as opposed to what Government would have proposed in the committee. We did study the two options of having an independent commission or having no commission. We are aware that other countries that are implementing similar laws have commissions in place.

Arising from the fact that Uganda does not have a competition authority, the country could not lay claim to the said monies as required by law. There is an urgent need to establish the Competition and Consumer Protection Commission so that Uganda can utilise this money to implement the law on competition.

However, as Government, we took a decision. Given the policy of rationalisation, which Members of Parliament are actually interested in and supporting, we said that instead of creating more institutions, we would rather have a middle ground. The middle ground was, let us have a very competent committee under the ministry that can play a similar role as a

commission. Even these resources that we are talking about can continue to finance the work of controlling competition in this country.

Therefore, we have a very significant point that we differ from the proposal by the committee and I want to urge my colleagues to reject this.

THE DEPUTY CHAIRPERSON: Thank you. Honourable minister, I need your guidance so that I can move very well with the colleagues.

Two weeks ago, the Minister of Information, Communications Technology and National Guidance announced that you are creating a new Authority on Food and Agriculture yet we have not yet completed the process of mergers.

Secondly, I would like to get it clearly from you because our biggest fear is the Government. If, as a ministry, you will be controlling it and the President issues a directive to you who he can hire and fire, that it is unfair to other businesses. Can you confirm to this House that you will reject the President's directive because it is unfair for other businesses?

MR BAHATI: Mr Chairperson, on the issue of National Drug Authority, these are issues that we discussed, captured and planned for in the next budget. When we were debating this issue, after agreeing that we should have a committee, we never budgeted for this, which makes a very strong point. As Members of Parliament, we need to pass laws that are going to be implemented immediately. If it is not budgeted for, it means that we are going to have – [*Member: "Order."*]

THE DEPUTY CHAIRPERSON: Honourable, give him a chance to answer; I asked two questions.

MR BAHATI: Secondly, you asked whether I would reject the President's directive. My understanding is that if there is a law that controls competition, from experience, Mr Chairperson, you know His Excellency the President would never make any directive against the law.

THE DEPUTY CHAIRPERSON: If he makes a directive, would you reject?

MR BAHATI: First, he would never make any directive against the law. (*Laughter*)

THE DEPUTY CHAIRPERSON: Thank you. Hon. Nsereko? Honourable colleagues, we are debating a proposal by the committee. I do not see why points of procedure come in. Let us move under the rules of debate and avoid shortcuts.

MR NSEREKO: Mr Chairperson, I will premise my desire to move the House to adopt the committee position based on the following: one, the principle of independence which you asked, has fallen short of an inadequate answer. Is the Ministry of Finance, Planning and Economic Development or Ministry of Trade, Industry and Cooperatives or Government also a player in business? The answer is, yes. For example, Uganda Airlines, Uganda Property Holdings Ltd, among others are players in business so, you are already conflicted.

The question would be, can a player in the same field be a regulator and you get fairness? We are talking about protection of consumers and fair trade.

Two, can a minister armed with a tiny committee that is handpicked by themselves, have the expertise to investigate, do research, arbitrate and come up with a reasonable answer for every merger, every collusion, all sorts of businesses and all sorts of petitions that are presented before them? Uniformity demands that everywhere in the world where there is a law on competition, when introducing something peculiar, it involves the creation of a commission. How do commissions survive? Commissions mainly survive on penalties. That is why, in the telecom industry, you have the Uganda Communications Commission, in elections, you have the Electoral Commission. Do you understand? There are two players arguing for a position in order to convince one another or differ and the best arbiter or person to provide a better playing ground cannot be one of the players.

Honourable minister, in Kenya we have the Competition Authority of Kenya, Tanzania has the Fair Competition Commission and Rwanda has Rwanda Inspectorate Competition and Consumer Protection Authority. Why do you want to distort the line that you agreed upon in the East African Community? It is immoral, incoherent and unacceptable.

Finally, the honourable minister is talking about rationalisation, but procedures of Parliament do not allow us to legislate in anticipation. That law is not yet here so, do not anticipate until it is here. If we find out that it is not desirable, then we shall come up with an answer. I urge honourable Members to adopt the committee position. Thank you.

THE DEPUTY CHAIRPERSON: Hon. Ruhunda and then Hon. Akamba.

MR RUHUNDA: Thank you, Mr Chairperson. Hon. Nsereko has summed up some of our concerns very well, given the fact that this merging process which the Government has been dilly-dallying with has taken long and Parliament has not made a stand on it. Even a select committee was formed to ensure that it interrogates the whole process so, we have not come to a conclusion.

This is in order because trade is a very delicate matter. We were wondering why, up to date, we do not have this competition law in place because it has made Ugandans make huge losses at the expense of a few. This commission is extremely important because it will be independent and regulate both the Government and the private sector. Therefore, why would we fail ourselves when we are making a law?

I think the committee has done its research. As you can see, they are solid, they have given us a very good position and I stand to support it. *(Applause)*

MR AKAMBA: Thank you, Mr Chairperson. I stand to support the amendment as proposed by the committee because it would be unfair for us to allow a player in business to be

the adjudicator in matters relating to fair competition.

I think the honourable minister is advancing that rejection hoping that we shall leave the law to apply to the Government. We are looking at Article 21 where all persons are equal before the law and they should be treated equally. We cannot allow the minister to be the one to implement this Act. I therefore stand to support the amendment. Thank you.

THE DEPUTY CHAIRPERSON: Hon. Basalirwa?

MR BASALIRWA: Thank you very much, Mr Chairperson. The committee raises fundamental issues of International Law. I do not know how the Attorney-General is going to escape from our obligations under International Law. We are talking about obligations under COMESA and the East African Community Treaty.

My friend, Hon. Bahati, the learned Attorney-General will tell you that under treaty law, there is a principle called *pacta sunt servanda*. The moment you enter into a treaty, you are bound by the provisions of that treaty. There is no way we are going to renege our regional and international obligations. We have no option apart from adopting the position of the committee on *pacta sunt servanda* grounds. Even if we dropped all the arguments, we are tied. Thank you.

THE DEPUTY CHAIRPERSON: Honourable colleagues, does anyone have an alternative view?

MR NANDALA-MAFABI: Mr Chairperson, I would like to state from the onset that the moment we go against the Government, as he is saying, this law will die today.

Let me tell you something. What I have seen is that the Government is not willing. First of all, this law came here in 1998 and went back. We have been asking for this law for a long time and I can tell you this law is no different from the Anti-Money Laundering (Amendment) Act that we passed here; it took us almost 20 years to make.

What I am trying to raise is that there are many commissions we have in this country. If we need a commission, let us give it an additional assignment and the commission that I would like to bring across is the Equal Opportunities Commission. This commission will be assigned, additionally, to have a department to deal with competition.

Mr Chairperson, if we assign it to the Equal Opportunities Commission, it will give us an opportunity to eventually amend, at an appropriate time.

THE DEPUTY CHAIRPERSON: Thank you, Hon. Nandala-Mafabi. Honourable colleagues, I want to put a general question, but not on the clause. First, under this proposal, there are very many other issues that need to be covered. Therefore, I want us to first be satisfied. The question I am putting is on the general principle that the House agrees to the creation of the commission.

(Question put and agreed to.)

THE DEPUTY CHAIRPERSON: There are other functions and powers that we are going to go through. Thereafter, we shall have a general question on the clause. Let us move slowly.

We have finished the establishment of the commission. Can we now go to the independence of the commission, which I think is straight to the point then the seal of the commission and the tenure of office of members of the commission?

MS OPENDI: Thank you, Mr Chairperson. It has been a common practice here to give members of commissions and boards three years. If you look at most of the boards we have passed here - and I think this was even a decision when I was in the Cabinet - we have three years, renewable once.

The amendment I would like to propose is that the commission members should hold office on a full-time basis for three years and should be eligible for reappointment for one more term.

THE DEPUTY CHAIRPERSON: Thank you. Hon. Nyakikongoro, were you on a commission? Is that okay? You wanted to submit something?

MS NYAKIKONGORO: Thank you, Mr Chairperson. I think four years is adequate because in the first year, you are just getting on board; you are studying the situation. Three years is not sufficient enough to understand issues. I support the four years, renewable once.

THE DEPUTY CHAIRPERSON: Especially a new commission like this one where you are undertaking its establishment. Hon. Sarah, are you okay with that?

MS OPENDI: Mr Chairperson, the Attorney-General has said I should concede.

THE DEPUTY CHAIRPERSON: Very good. Thank you. Hon. Nandala-Mafabi, is it on the tenure?

MR NANDALA-MAFABI: No, I am not on the tenure of office.

THE DEPUTY CHAIRPERSON: Let us fast finish the tenure of office. Honourable colleagues, on tenure of office, we should not have a long debate. Can I put the question that we go with four years?

(Question put and agreed to.)

THE DEPUTY CHAIRPERSON: Let us move on. Hon. Nandala-Mafabi, what was your issue?

MR NANDALA-MAFABI: Mr Chairperson, you have talked about -

THE DEPUTY CHAIRPERSON: Doctor, I will allow you.

MR NANDALA-MAFABI: Mr Chairperson, on establishment, sub-section (3((a), says "A chairperson who shall be a person with at least 10 years of experience...".

Mr Chairperson, my worry here is that “nominated” means you nominate, somebody will approve and appoint according to this provision. They are saying “nominated”.

Sub-section (3)(b) says a deputy chairperson must have similar qualifications as the chairperson. When the chairperson is not around, the deputy takes over. My proposal is that instead of 10 years, let us say eight years of experience.

Mr Chairperson, if we all agree that the President is going to nominate then there must be an approval process, which shall be Parliament -

THE DEPUTY CHAIRPERSON: Clause 3(3) says “The commission shall consist of the following persons who shall be appointed by the President with the approval of Parliament”.

MR NANDALA-MAFABI: Perfect, Mr Chairperson. What I would like to raise is that – Would you like to give information? *(Interruption)*

MR KATABAAZI: Thank you, Mr Chairperson. If we want to have an independent commission, we should put two things into consideration. One, meritocracy should be applied where people bring their credentials. Otherwise, we must look at the people who are capable.

Mr Chairperson, I am against the President appointing the –

THE DEPUTY CHAIRPERSON: Honourable colleague, you are giving information not submitting. That is not information.

MR KATABAZI: So, can I submit?

THE DEPUTY CHAIRPERSON: No, you are using Hon. Nandala-Mafabi’s space. *(Laughter)*

MR KATABAAZI: I did not say information; I thought he concluded his submission.

THE DEPUTY CHAIRPERSON: Honourable colleagues, it is standard and we have been doing it. Parliament approves and Parliament can reject.

MR KATABAAZI: My issue here is political appointments.

THE DEPUTY CHAIRPERSON: You will never do away with that; live in reality. Even if it is you in power, you will appoint the people you work with.

MR KATABAAZI: I know, but qualified people.

DR FLORENCE ASIIMWE: Thank you, Mr Chairperson. Appointment by the President is a constitutional right, but this is an Act of Parliament. Are commissioners appointed by the President, if the commissioners have been proposed by an Act of Parliament or the Constitution? I just need guidance.

THE DEPUTY CHAIRPERSON: Attorney-General, do you want to guide the member about the executive powers of the President?

MR KAFUUZI: Thank you, Mr Chairperson. On the concern raised by Dr Asiimwe, there are commissions within the Constitution for which the President can make direct appointments. However, there are also powers within legislation. Usually, the line minister takes a proposal of names to the Cabinet and the Cabinet approves, the President appoints and they come to Parliament for approval.

THE DEPUTY CHAIRPERSON: Those are internal details. Executive powers of the President under Article 99 are very clear. The moment we create it here, the President will get the names. What is important is that Parliament will scrutinise – Hon. Olanya, is it different?

MR OLANYA: Thank you, Mr Chairman. Looking at the years of experience, we are going for 10 years. However, I think we shall be limiting someone who is more experienced. We have other people who are well-educated and are experts in the field, but have experience

of two or three years. If we are going for 10 years, Mr Chairman, I really feel that we would be limiting other people.

I propose that we reduce the number of years of experience required for someone to be a chairperson. It is quite difficult to get someone who has experience of 10 years.

THE DEPUTY CHAIRPERSON: Committee chairperson, why did you propose 10 years? You can get support of your members; it does not have to be you. You can call on any committee member to support you.

MS CATHERINE LAMWAKA: Mr Chairman, the committee opted for 10 years, looking at the matter of competition being very technical, which would require vast experience in that field. Secondly, from the benchmarking that the committee did – and experiences from other areas – we felt that 10 years would be more applicable.

THE DEPUTY CHAIRPERSON: Thank you. Honourable colleagues, these are issues which are not isolated. These are issues of international trade, which cut across many countries. Let Uganda not be very unique on such issues. Where the committee has benchmarked and found that other countries have done it this way, good practice usually applies in such issues. Hon. Aisha?

MS AISHA NALULE: Thank you very much, Mr Chairman. I actually have no problem with the 10 years because, below, members can have five years. There is even a slot where no experience is mentioned at all. That presupposes that other people will be employed with no experience required.

My question is on where you need nominations by trade unions and the private sector. In a situation where you have a stalemate between the President's desires and the desires of those particular entities, what happens? Suppose the President does not want the people that have been nominated by the trade unions, what happens? That is something that we need to sort out.

THE DEPUTY CHAIRPERSON: Committee chairperson – yes, Hon. Nandala-Mafabi?

MR NANDALA-MAFABI: Mr Chairman, since we are on tenure, if I am a vice-chairperson and you are saying I am eligible for reappointment only once, it means I will die a vice-chairperson and if I am a member, I will die a member. That means I cannot be a member and grow to become a vice-chairperson and later grow to become a chairperson. That is very dangerous.

Two, where a member has been removed from office and you say a member removed will wait until another one is appointed, it will be like the *mabaati* case. *(Laughter)* Somebody has already been interdicted, but he must remain in office. Please, do not make a law which keeps people – even thieves – in office.

I want the committee chairperson to assist me: should I die a vice-chairperson or just a member? You are saying reappointment is for one more term only. Does this apply to all members or to the chairperson and vice-chairperson?

Lastly, if it is a trade union – which I also do not agree with, just like Hon. Aisha has said – the moment you bring in trade unions, you are bringing in more politics. There is a lot of politics in trade unions. You have seen why NSSF is having problems. If we do not remove this from here – Assuming we allow it, it means the only person who should remove that board member from that commission shall be the institution which sent him. The President or the minister will have no powers to remove such a person.

THE DEPUTY CHAIRPERSON: Hon. Nandala-Mafabi is raising critical issues. When you are removed from office, leave office – under clause 6.

Secondly, what I pick from his submission is that the law can guide the President on areas of consideration when he/she is appointing. However, this business of unions is a tricky one.

MR MWINE MPAKA: Thank you, Mr Chairman. We considered several stakeholders, for example, the trade unions because under sub-clause (1) (e), trade union activities are exempted from the application of this Bill. Therefore, we needed someone from the representation of these trade unions to verify someone who comes with activities that are exempted.

THE DEPUTY CHAIRPERSON: There can be an area which the President can consider without the trade unions being the ones sending the person. Proposal?

MS OPENDI: Thank you, Mr Chairman. I was trying to discuss this with him. Actually, from experience, we have had challenges. Where you have many trade unions, are you going to write to all of them? What if all of them nominated a person? We already have the Private Sector Foundation from which they can pick a person.

If we are looking at traders, why don't we look for one umbrella body like the Uganda Manufacturers Association where it is easier to pick somebody who may then speak for the interests of those other people? This is better than having the trade unions. The manufacturers association is an umbrella body that brings these people together.

THE DEPUTY CHAIRPERSON: Honourable colleagues, on where a member is removed from office, we should agree that once you are removed from office – as proposed by Hon. Nandala-Mafabi -

MS CATHERINE LAMWAKA: Mr Chairman, on sub-clause (6), we agree with that proposal.

THE DEPUTY CHAIRPERSON: Thank you, that is sorted.

MS CATHERINE LAMWAKA: We provided sub-clauses (d) and (e) to take care of vast interest; the President can nominate from those two constituencies.

THE DEPUTY CHAIRPERSON: Committee chairperson, you are saying you are just giving areas where the President can nominate from other than the specific organisations being the ones to send. Is that what you said, committee chairperson?

MS CATHERINE LAMWAKA: Mr Chairman, in sub-clause (d), we provided for one person nominated by the private sector and (e) is for one person nominated by the trade unions to represent.

THE DEPUTY CHAIRPERSON: Yes, Hon. Aisha?

MS AISHA NALULE: Thank you very much. Having captured the intention – the intention is to have all those sectors represented – it should be the President to nominate. Therefore, it is about the qualifications of the members of the commission. We should mention that the qualification is being a trade unionist and then the President will go ahead and appoint.

Even when you read clause 3(3)(f), it says, “two persons with at least five years’ experience in the field of competition and consumer protection nominated by the President”. It is as if it is not the President nominating all the above. Since it is the President nominating all the above, we just have to mention all the areas where we want the President to pick people from.

THE DEPUTY CHAIRPERSON: Thank you. Committee chairperson?

MS CATHERINE LAMWAKA: Mr Chairman, I concede to the proposal.

THE DEPUTY CHAIRPERSON: Thank you. I think that saves us the chaos these nominations it usually causes. When we were handling the NSSF issues, you saw how people were nominating girlfriends to these positions because they are in power. Hon. Asamo?

MS ASAMO: Thank you, Mr Chairman. I just want to bring the issue of gender in the composition because I did not hear it. I wanted

to bring it at the level of leadership. If the chairperson is a man, the lady should be a vice-chairperson.

THE DEPUTY CHAIRPERSON: No, the issue of gender is a constitutional matter; it was sorted. We have been handling it in Parliament. We do not approve any nomination that does not meet that constitutional requirement matter so, let us move on.

MS KAAYA: Mr Chairperson, my issue is on the numbers; they look to be seven. Why not make them five and then the Commission can co-opt any other two at any one time?

THE DEPUTY CHAIRPERSON: Honourable member, the duty is usually - they create subcommittees because the business can be a lot. Usually, when you limit yourself, you end up getting problems.

MR KABUYE: Thank you, Mr Chairperson. I have read that a board chairperson and deputy chairperson need 10 years of experience. I see that there is a pool of young people who we are excluding from getting an opportunity to serve on the Commission.

Therefore, I propose that we amend and say that among the Commission members, when the President is appointing, he should include at least a person below 35 years.

THE DEPUTY CHAIRPERSON: 10 years is for the chairperson and deputy chairperson. Honourable member, these are not issues for young people; these are issues of experience. These are very technical issues where you do not bring such. Let us move on.

We had concluded on tenure and we are now on remuneration and allowances, which is direct. Let us go to functions. Is there anyone with an issue on the functions? (*Hon. Akamba rose*) Is it on functions or remuneration?

MR AKAMBA: Thank you, Mr Chairperson. The proposal is for Parliament to prescribe the emoluments. I am of the view that we leave this to the appointing authority since we have

said that the person to nominate and appoint shall be the President. This is indeed a role of the Executive and I propose that we leave this to be the preserve of the President who is the appointing authority.

THE DEPUTY CHAIRPERSON: I think that is fair. Moreover, we appropriate money. Committee chairperson, let us move on that.

MR NANDALA-MAFABI: Mr Chairperson, Hon. Akamba has a point. This is where you are going to have a problem here in Parliament. Every day, you will see a Commission coming with their own budget. What he is raising is that if we put it in the hands of the appointing authority then it will come in a budget through the Ministry of Finance, Planning and Economic Development and the emoluments of members shall be prescribed by the appointing authority.

THE DEPUTY CHAIRPERSON: Let us delete it.

MR NANDALA-MAFABI: Either way you do this; it is very dangerous.

MS CATHERINE LAMWAKA: Mr Chairperson, we concede on that.

THE DEPUTY CHAIRPERSON: Thank you. Members, the ones in the secretariat are okay. Let us go to the executive director and his or her functions. I put the question that Clause 3 be amended as proposed.

(Question put and agreed to.)

Clause 3, as amended, agreed to.

Clause 4

MS CATHERINE LAMWAKA: Clause 4: Functions of the ministry.

Clause 4 is amended by substituting for the word "m" in the sub-title, the word "Commission" and wherever it appears in the clause.

The justification is it is a consequential amendment arising from the establishment of the Competition and Consumer Protection Commission.

THE DEPUTY CHAIRPERSON: Honourable colleagues, I put the question that Clause 4 be amended as proposed. It is a consequential amendment; simply removing the word “minister” to put the word “Commission.”

(Question put and agreed to.)

Clause 4, as amended, agreed to.

Clause 5

MS CATHERINE LAMWAKA: Clause 5 is amended by –

- (a) substituting the word “ministry” in the subtitle with the word “Commission” and wherever it appears in the clause;
- (b) Deleting the words “or proposed to be taken”, appearing immediately after the words “decision taken”.

The justifications are:

1. The amendment is a consequential amendment arising from the establishment of the Competition and Consumer Protection Commission; and
2. To remove the ambiguity caused by the referral of a matter to the Commission where a decision has not yet been made by the concerned statutory authority.

MR BAHATI: Mr Chairperson, I agree it is a consequential amendment.

THE DEPUTY CHAIRPERSON: Thank you. I put the question that Clause 5 be amended as proposed.

(Question put and agreed to.)

Clause 5, as amended, agreed to.

Clause 6

MS CATHERINE LAMWAKA: Clause 6: Technical Committee on Competition and

Consumer protection. The proposal is that Clause 6 is deleted.

The justification is it is a consequential amendment arising from creating an independent Commission responsible for implementing matters of competition and consumer protection.

THE DEPUTY CHAIRPERSON: Honourable members, I put the question that Clause 6 be deleted.

(Question put and agreed to.)

Clause 6, deleted.

Clause 7

MS CATHERINE LAMWAKA: Clause 7 is amended by –

- (a) substituting for the word “ministry”, the word “Commission” wherever it appears in the clause;
- (b) deleting the words “after consultation with the technical committee” in sub-clause (a);
- (c) deleting the word “Treaty” appearing immediately after the word “Community” in sub-clause (c).

The justifications are:

- (a) It is a consequential amendment arising from the creation of a Competition and Consumer Protection Commission and the deletion of the Technical Committee on Competition and Consumer Protection; and
- (b) To correct a typographic error.

THE DEPUTY CHAIRPERSON: On consequential amendments, I do not want to disturb the minister. I put the question that Clause 7 be amended as proposed.

(Question put and agreed to.)

<i>Clause 7, as amended, agreed to.</i>	(h) By deleting subclause (7)
Clause 8	Justification
<p>MS CATHERINE LAMWAKA: Clause 8: prohibition of Anti-competitive practices and agreements. Clause 8 is amended –</p>	
<p>(a) in sub-clause (1) by substituting it with the following:</p>	
<p>“A person shall not enter into an agreement which is anti-competitive or engage in anti-competitive practices”.</p>	<p>(a) The proposed amendment in (a) is a consequential amendment following the definition of anti-competitive agreement or practice for purposes of clarity. The committee, while interfacing with stakeholders, observed that the provisions as initially drafted were not easily understood and proposed that they be redrafted in a manner that is easily understood by the general citizenry.</p>
<p>(b) in sub-clause (3) by substituting for the words “an agreement, decision, concerted action or practice has an adverse effect on competition or is likely to have an adverse effect on competition where that agreement, decision, concerted action or practice”, the words “a horizontal agreement is anti-competitive where”.</p>	<p>(b) The proposed amendments in (b) and (c) are consequential amendments following the use of the terms horizontal or vertical agreement for purposes of clarity.</p>
<p>(c) in sub-clause (4) by deleting the words “an agreement, decision, concerted action or practice between persons at different stages or levels of the production chain in different markets, in respect of production, distribution, sales or practice of or trade in goods, or provision of services, including”, and replacing them with the words “a vertical agreement involving.”</p>	<p>(c) The deletion of the definition of “bid-rigging” in (f) is because the definition of the word “bid-rigging” has been transferred to the main definition section.</p>
<p>(d) in paragraph (d) by replacing the words “and” with the word “or.”</p>	<p>(d) In (e), it is a consequential amendment following the definition of “anti-competitive practice”.</p>
<p>(e) In sub-clause (4) by substituting for the words “is an agreement, decision, concerted action or practice agreement in contravention of sub-section (1)” the words “is anti-competitive and prohibited under this Act”.</p>	<p>(e) In (g), it is a consequential amendment following the establishment of the Competition and Consumer Protection Commission.</p>
<p>(f) By deleting sub-clause (5).</p>	<p>(f) In (h), it is a consequential amendment following the exemption of agreements dealing with intellectual property rights under Clause 1 of the Bill.</p>
<p>(g) In sub-clause (6) by substituting for the word “ministry”</p>	<p>THE DEPUTY CHAIRPERSON: This might require us to first handle Clause 2 because you are referring to definitions and yet it can only be consequential if we have handled the definition section.</p>
<p>the word “Commission” wherever it appears in the provision.</p>	<p>Honourable colleagues, should we again stand over it? I think it will confuse us so, let us go to Clause 2, but we have not yet sorted out Clause 2, which they are referring to. It can only be consequential if we approve Clause 2. Now, it is not yet consequential. Can we stand over it and we first handle Clause 2?</p>

Clause 9

THE DEPUTY CHAIRPERSON: What is the issue, Hon. Aisha Kabanda?

MS AISHA KABANDA: Mr Chairperson, I would like to give the names for recommitment on Clause 4.

THE DEPUTY CHAIRPERSON: Recommitment is done at the end, Hon. Aisha Kabanda.

MS AISHA KABANDA: I am giving a notice, Mr Chairperson.

THE DEPUTY CHAIRPERSON: You do not need notice, read the rules. You are allowed at that stage. I put the question that Clause 9 stands as part of the Bill.

(Question put and agreed to.)

Clause 9, agreed to.

Clause 10

THE DEPUTY CHAIRPERSON: Committee chairperson? You can go for recommitment; we are on clause 10 now.

MS CATHERINE LAMWAKA: Clause 10 is amended –

- (a) By deleting sub-clause (2);
- (b) In sub-clause (3) by substituting for the word “ministry” the word “commission”;
- (c) By substituting for sub-clause (3) paragraph (a) with the following –

“(c) 30 per cent or more of particular goods or services are supplied or acquired by one enterprise, or 60 per cent or more of particular goods or services are supplied or acquired by not more than three enterprises or such other percentage as the minister may, upon the recommendation of the commission, by statutory instrument, prescribe.”

- (d) In paragraph (1), by substituting for the word “department” the word “commission”.

Justification

- (a) To provide for a more specific threshold while determining the dominant position in the Ugandan market and require the minister to consult the Commission and issue a statutory instrument upon recommendation of the commission.
- (b) It is a consequential amendment arising from the establishment of a Commission.

THE DEPUTY CHAIRPERSON: Honourable minister?

MR BAHATI: I agree with the committee proposal.

THE DEPUTY CHAIRPERSON: I put the question that Clause 10 be amended as proposed.

(Question put and agreed to.)

Clause 10, as amended, agreed to.

Clause 11

THE DEPUTY CHAIRPERSON: I put the question that Clause 11 stands part of the Bill.

(Question put and agreed to.)
Clause 11, agreed to.

Clause 12

THE DEPUTY CHAIRPERSON: I put the question that Clause 12 –

MR ANGURA: Mr Chairperson, on Clause 12(2), I propose an amendment to add (h) and read; “malicious or false whistleblowing”.

Justification

Clause 13, as amended, agreed to.

Whereas whistle-blowers are encouraged and they support us by giving information, at times, many of them are involved in giving false information that has led agencies of Government like Uganda Revenue Authority and others to over investigate and bring agencies down, leading to collapse of these agencies.

Therefore, let us add (h) to those amendments; “malicious or false information.”

THE DEPUTY CHAIRPERSON: Attorney-General?

MR KAFUZI: Mr Chairperson, whichever information is given through whistleblowing is subjected to investigation and there is no way that can be avoided.

THE DEPUTY CHAIRPERSON: I put the question that Clause 12, as amended, stands part of the Bill.

(Question put and agreed to.)

Clause 12, as amended, agreed to.

Clause 13

THE DEPUTY CHAIRPERSON: Committee chairperson?

MS CATHERINE LAMWAKA: Clause 13 is amended in paragraph (1) by substituting the word “ministry” with the word “Commission.”

Justification

The amendment in paragraph 1(i) is a consequential amendment following the establishment of a Commission.

THE DEPUTY CHAIRPERSON: I put the question that Clause 13 be amended as proposed.

(Question put and agreed to.)

Clause 14

THE DEPUTY CHAIRPERSON: Committee chairperson?

MS CATHERINE LAMWAKA: Clause 14 is amended –

- (a) In sub-clause (i) by substituting for the word “ministry” the word “Commission”;
- (b) By inserting a new sub-clause immediately after sub-clause (1) as follows –

“The minister shall, on the recommendation of the Commission, by statutory instrument, prescribe the threshold to be applied for the purpose of sub-section (1).”

- (c) In sub-clause (5) by substituting for the word “ministry” the word “commission” and inserting the words “in one hundred and twenty days” immediately after the word “market” appearing at the end of the sentence.
- (d) In sub-clause (6) by substituting for the word “ministry” the word “Commission”.
- (e) In sub-clause (7) by replacing the word “ministry” with the word “Commission” wherever it appears in the provision and deleting the words “by the minister by regulations”.
- (f) In sub-clause (8) by deleting the paragraph (b).
- (g) In sub-clause (9) by substituting for the word “ministry” the word “Commission”.

Justification

- (a) The substitution in (a) is subsequential to the creation of the Competition and Consumer Protection Commission.

(b) The insertion in (b) is to provide for a threshold for mergers, acquisitions and joint ventures required to give notice to the Competition and Consumer Protection commission.

proposed.

(Question put and agreed to.)

Clause 15, as amended, agreed to.

(c) The amendment in (c) is to provide for the timeline within which the Commission should consider notice for the merger or acquisition of a joint venture.

Clause 16

(d) In (d), it is a consequential amendment following the prescription of one hundred and twenty (120) days as the period for consideration of a merger, acquisition or joint venture.

MS CATHERINE LAMWAKA: Mr Chairperson, Clause 16 is amended by substituting for word “ministry”, the word “Commission” wherever it appears in the provision and in sub-clause (3) by substituting for the words “time prescribed by the minister by regulations”, the words “fourteen days”.

Justification

(e) The deletion in (f) is to correct a topographic mistake.

(a) This is a consequential amendment following the establishment of the commission;

(f) The amendments in (a), (c), (d), (e) and (g) are consequential amendments arising from the creation of a Commission.

(b) To prescribe for a timeline within which a merger should take a decision on conditions imposed by the commission.

THE DEPUTY CHAIRPERSON: Honourable minister?

MR BAHATI: I agree with the committee.

MR BAHATI: Mr Chairperson, no objection.

THE DEPUTY CHAIRPERSON: I put the question that clause 14 be amended as proposed.

THE DEPUTY CHAIRPERSON: I put the question that clause 16 be amended as proposed.

(Question put and agreed to.)

(Question put and agreed to.)

Clause 14, as amended, agreed to.

Clause 16, as amended, agreed to.

Clause 15

Clause 17

MS CATHERINE LAMWAKA: Clause 15 is amended in sub-clauses (1), (2), (3) and (4) by substituting for the word “ministry” the word “Commission” wherever it appears in the provision.

MS CATHERINE LAMWAKA: Clause 17 is amended by substituting for the word “ministry” the word “commission” and substituting the words, “on conviction to a fine not exceeding one hundred currency points or imprisonment not exceeding four years or both” with the words “to pay a fine not exceeding ten per cent of its annual turnover”.

The justification is that it is a consequential amendment arising from the establishment of a commission.

Justification

THE DEPUTY CHAIRPERSON: I put the question that Clause 15 be amended as

(a) The substitution is a consequential amendment arising from the creation of

a Competition and Consumer Protection Commission;

- (b) To provide for a suitable penalty based on an annual turnover of an enterprise.

MR BAHATI: I have no objection.

MR NANDALA-MAFABI: Mr Chairperson, if they have given you notice and you failed to reply then the merger, acquisition or joint venture does not take place. You can only merge or acquire having provided information that satisfies the commission. If you have not given, why penalise? Maybe you do not want a merger.

My proposal is that Clause 17 be deleted. The justification is that the commission will inquire and if they ask for information, you will provide, merge, acquire or reject, but if you have failed then what you applied for does not take place. There is no need for a penalty.

MR KAFUZI: My understanding of this clause is that if any enterprise has entered into a merger, it is required to notify the commission. If that notification is not given, then it is fined. Basically, that is it.

Mr Chairperson, you may decide to merge and avoid paying taxes and other consequential requirements, but you do not make it public. For example, all of a sudden, TotalEnergies takes over Nandala-Mafabi. I propose that we maintain it.

MR NANDALA-MAFABI: The moment Nandala-Mafabi disappears on a register, that is an illegal acquisition or merger. It is actually a criminal act. The law says to merge or acquire, you must follow the procedures by going to the commission so you cannot say failure to give notice –

My proposal is that those who purport to merge and whatever - that is different. Attorney-General, failure means -

THE DEPUTY CHAIRPERSON: Hon. Nandala-Mafabi, if I am getting you right,

what you are saying is that if you have not followed the process then the merger has not taken place, but Clause 17 is saying the merger can be recognised to have taken place and you pay a fine; we penalise you.

What Hon. Nandala-Mafabi is saying is, if you have not completed the process then the merger has not taken place. We should not give any room anywhere to cure any mischief at any stage.

MS AISHA NALULE: My opinion is that the two actually apply. If you have not followed the process, then it does not exist legally. However, in real terms, you would have hoodwinked people that you have actually merged when you have not. Therefore, there should be a fine. You actually do not exist.

The moment we discover that you have been acting as though you legally went through the merger then you must pay the fine. I think we need the two.

MR MWINE MPAKA: In clause 14, notice of merger, acquisition and joint venture, an enterprise which proposes to enter into any merger, acquisition or joint venture shall give notice of the merger, acquisition or joint venture to the ministry in the manner and form prescribed by the commissioner. This is where we got this amendment.

THE DEPUTY CHAIRPERSON: It should have been handled under clause 14 not clause 17 or by creating a new clause.

MR KAFUZI: In essence, Clause 14 is incomplete. It should say you are required to give notice for the purpose of a merger. In the event that you have not, that is an offence and you are liable to a fine.

Mr Chairperson, can we redraft Clause 14 to encompass the contents of Clause 17?

THE DEPUTY CHAIRPERSON: Chairperson, I propose that we delete Clause 17. However, you will move a motion to recommit Clause 14 so that we can address this.

MS CATHERINE LAMWAKA: We take that opinion.

THE DEPUTY CHAIRPERSON: I put the question that clause 17 be deleted.

(Question put and agreed to.)

Clause 17, deleted.

Clause 18

MS CATHERINE LAMWAKA: Clause 18 is amended in paragraph (b) by substituting for the words “two hundred and fifty currency points” the words “one thousand two hundred and fifty”

The justification is to provide for a more deterrent penalty for the utterance of false statements.

THE DEPUTY CHAIRPERSON: Is this not related to clause 14? When you read Clause 14, all that would be covered there. It is a process of a merger and if you do not follow the right process, there are penalties and all that would be under clause 14. Attorney-General, how would you guide on this?

MR KAFUZI: We have just proposed to redraft clause 14 so that the fines, liabilities and prescribed currency points fall thereunder. That would mean that clauses 17 and 18 should be merged with clauses –*(Interjections)*– they will be redrafted and their intention reflected under clause 14.

THE DEPUTY CHAIRPERSON: Honourable colleagues, let us not create unnecessary – let us delete it. When you recommit clause 14, you will handle all your concerns.

MS CATHERINE LAMWAKA: Mr Chairperson, we concede to the proposal to delete and recommit under clause 14.

THE DEPUTY CHAIRPERSON: Recommitting will be another motion.

MS CATHERINE LAMWAKA: Mr Chairperson, let us delete.

THE DEPUTY CHAIRPERSON: Okay. Otherwise, it would be a condition that before we delete, you promise us a recommitment. Honourable colleagues, I put the question that Clause 18 be deleted.

(Question put and agreed to.)

Clause 18, deleted.

Clause 19, agreed to.

Clause 20

MS CATHERINE LAMWAKA: Mr Chairperson, Clause 20 is amended as follows -

- (a) by substituting for the words “Ministry” and “Minister”, the word “Commission” wherever they appear in the provision.
- (b) in sub-clause (3) by substituting for the words “the time prescribed by the minister by regulations” the words “one hundred and twenty days”.

Justification

- (a) The amendment is to provide for the timeline for conclusion of inquiries.
- (b) The further amendment is consequential to the creation of Competition and Consumer Protection Commission.

THE DEPUTY CHAIRPERSON: Honourable minister?

MR BAHATI: I agree with the amendment.

THE DEPUTY CHAIRPERSON: I put the question that Clause 20 be amended as proposed.

(Question put and agreed to.)

Clause 20, as amended, agreed to.

Clause 21

MS CATHERINE LAMWAKA: Clause 21 is amended by substituting for the word “Ministry” and the word “Minister”, wherever they appear in the provision, the word “Commission”.

The justification is that it is a consequential amendment arising from the creation of the Commission.

THE DEPUTY CHAIRPERSON: I put the question that Clause 21 be amended as proposed.

(Question put and agreed to.)

Clause 21, as amended, agreed to.

Clause 22

MS CATHERINE LAMWAKA: Clause 22 is amended in paragraph (c) by substituting for the words “thirty-six” the words “two hundred and fifty”.

The justification is that this is to make the provision more punitive for offences in relation to furnishing information.

THE DEPUTY CHAIRPERSON: Attorney-General, this is close to what we have been working on.

MR KAFUZI: Mr Chairperson, I request that we stand over this because I need to make sure it does not conflict with what we have proposed to fall under Clause 14.

MR NANDALA-MAFABI: Clause 14 deals with acquisition and mergers, but these are now general provisions. Suppose you have been asked to provide information on what you are doing in your business when they are trying to investigate anti-competition - whether you are dominant or not -

MR BAHATI: I am just seeking clarification. The committee chairperson said “Clause 28 is

amended” yet we are on Clause 22. I want to know whether it is a typo or she actually means that we are amending Clause 28.

THE DEPUTY CHAIRPERSON: You go by what I called not by what the committee chairperson said.

MR KAFUZI: Mr Chairperson, I have no objection to the amendment.

MR NANDALA-MAFABI: Hon. Bahati might get an excuse to take us to court. What the committee has given us is typed as Clause 28. I think let the committee chairperson correct that from Clause 28 to Clause 22 to avoid Hon. Bahati taking us to court. *(Laughter)*

MS LAMWAKA: Mr Chairperson, for the record, it is Clause 22.

THE DEPUTY CHAIRPERSON: Thank you. Honourable colleagues, at Committee Stage, the clause that the Chair calls is what we deal with. However, Hon. Nandala-Mafabi knows Hon. Bahati very well, they are both auditors. It seems they have been auditing each other so, they know the tricks used. *(Laughter)*

Honourable colleagues, I put the question that clause 22 be amended as proposed.

(Question put and agreed to.)

Clause 22, as amended, agreed to.

Clause 23, agreed to.

Clause 24, agreed to.

Clause 25

MS CATHERINE LAMWAKA: Mr Chairperson, Clause 25 is amended by substituting for the word “Ministry” the word “Commission.”

The justification is that it is a consequential amendment arising out of the establishment of the Commission.

THE DEPUTY CHAIRPERSON: I put the question that Clause 25 be amended as proposed.

(Question put and agreed to.)

Clause 25, as amended, agreed to.

Clause 26

MS CATHERINE LAMWAKA: Mr Chairperson, Clause 26 is amended –

- (a) In sub-clause (1) by substituting for the word “Ministry” the word “Commission.”
- (b) In sub-clause (2) by substituting for the words “one hundred” the words “two hundred and fifty” and by substituting for the word “four” the word “three”.

The justification is that the amendment is to make the penalty more punitive and the second part of the amendment is consequential to the creation of the Commission.

MS NALUYIMA: Mr Chairperson, allow me to inquire from the committee chairperson. Where there was “thirty-six”, we are substituting it with “two hundred fifty”. Where there was “a one hundred”, it is again “two hundred and fifty” –

THE DEPUTY CHAIRPERSON: You are reducing.

MS NALUYIMA: What factor are we looking at? There is the same justification throughout.

MS AISHA KABANDA: Thank you, Mr Chairperson. In relation to that, whereas we have increased the fine, we are reducing the years of imprisonment. I do not understand it. We are increasing the fine from 100 to 250 currency points, but reducing the years of imprisonment to “not exceeding three years”. I just do not see the correlation.

THE DEPUTY CHAIRPERSON: The committee chairperson is consulting. Is there a committee member who wants to volunteer information?

MR NANDALA-MAFABI: As they consult, I want to seek your intelligence. We have created this commission, but I have not seen them talking about the part of finances. When we create authorities, we tell them about how the reporting will be, but I have not seen it here. We have not talked about accountability of public funds. Somebody might say that they have nowhere to report, according to the law. I will be very glad if the Attorney-General and the committee think - Because the moment you created that commission, you should have come up with the rules as far as reporting and accountability are concerned.

THE DEPUTY CHAIRPERSON: I think we can be flexible enough and the Member introduces that amendment because we are trying to make a good law. I can allow it. For now, you can draft it. When we go back to the ones we stood over then I can be flexible.

MS CATHERINE LAMWAKA: Mr Chairperson, I noticed there was an error there. Clause 26 (b) is amended as follows –

- (b) in sub-clause (2) by substituting for the words, “one hundred” the words, “two hundred and fifty” or “imprisonment not exceeding four years or both.”

The justification is that the amendment is to make the penalty more punitive and also consequential to the creation of the Commission.

MS ALUM: Thank you, Mr Chairperson. I thought the committee chairperson was coming up with a better penalty as far as the four years vis-a-vis three years is concerned. When we increase them from 100 to 250 currency points and again reduce the number of years from four to three, how are we going to make it punitive?

THE DEPUTY CHAIRPERSON: Honourable colleagues, let me ask you; do we need to

increase - It is not a must to go with what the committee is saying. You must also ask yourselves if we can maintain what is in the Bill. Is it sufficient?

MS CATHERINE LAMWAKA: Mr Chairperson, contrary to what the Member has said, we have maintained what was proposed earlier; we have not reduced the years.

MR BASALIRWA: The learned Attorney-General could guide - You see, when we are making fines against prison sentences, there must be a correlation because this Parliament has considered that. I think it is important for us to have that at the back of our minds as we debate; that the two must move in tandem.

THE DEPUTY CHAIRPERSON: Honourable colleagues, let us maintain the original instead of causing conflicts. I put the question that Clause 26 stands part of the Bill.

(Question put and agreed to.)

Clause 26, agreed to.

THE DEPUTY CHAIRPERSON: On Clause 26, before we can go any further, there is also an amendment of replacing the word “Ministry” with “Commission.”

Committee chairperson, on currencies and penalties, we can maintain what has been brought as sufficient then we can amend the one on the commission, which is inconsequential. When you go into these issues of currencies to measure them from here, in relation to what Hon. Basalirwa said, they should be commensurate to the sentences. Hon. Sarah Opendi, I am reopening debate on Clause 26.

MS OPENDI: Mr Chairperson, if we go by the proposed 250 currency points, we cannot, on our own - There is a formula that is used; certain currency points are equal to a year. Therefore, let us leave that and ask the drafting team to correct it. We can pass the 250 currency points and ask the team -

THE DEPUTY CHAIRPERSON: No, what is wrong with the one proposed by Government? It is fair.

MS OPENDI: The Shs 2 million -

THE DEPUTY CHAIRPERSON: Yes, it does not hurt. Committee chairperson, you can help us concede so that we remain with the Commission and move.

MS CATHERINE LAMWAKA: Mr Chairperson, I concede.

THE DEPUTY CHAIRPERSON: Thank you. I put the question that Clause 26 be amended as proposed.

(Question put and agreed to.)

Clause 26, as amended, agreed to.

Clause 27

MS CATHERINE LAMWAKA: Our amendment is to insert a new part immediately after Clause 26 as follows -

“Establishment of a Competition and Consumer Protection Tribunal

1. There is establishment of the Competition and Consumer Protection Tribunal which shall consist of the following part time members appointed by the President on the recommendation of the Judicial Service Commission.
2. a legal practitioner of not less than 10 years’ legal experience who shall be the chairperson;
 - (a) a representative of the Attorney-General; and
 - (b) three other members with experience of at least five years and knowledge in matters relevant to this Act.

3. The vice-chairperson of the tribunal shall be appointed by the President from among the four other members of the tribunal.
4. A person shall not be appointed as a member of the tribunal where the person is –
 - (a) is undischarged bankrupt;
 - (b) is insane or of unsound mind;
 - (c) is in lawful custody or the person's freedom of movement is restricted under any law in force within or outside Uganda; or
 - (d) has been convicted of an offence under any law.

Terms of office of members of the Tribunal –

1. A member of the tribunal shall hold office for a period of four years from the date of appointment and maybe reappointed -

THE DEPUTY CHAIRPERSON: Committee chairperson, let us first handle part one before we continue any further, in the interest of time. Let us first agree on the principle that there will be a tribunal and then we can go into the rest.

MS CATHERINE LAMWAKA: The justifications are:

1. The tribunal shall have jurisdiction to hear and determine all matters relating to Competition and Consumer Protection arising from decisions made by the Commission or the Minister under this Act.
2. For the avoidance of doubt, the jurisdiction of the tribunal does not include the trial of any criminal offense.

MR KAFUZI: Mr Chairperson, we have already proposed the establishment of a Commission, which in itself, I believe, is contrary to Article 93 of the Constitution.

Be that as it may, now you are proposing the creation of a tribunal, which will also be contrary to Article 93.

I propose that instead of us forming two organs, all of which have a charge on the Consolidated Fund, we can have one which can do all. Whoever is dissatisfied with the decision of the Commission can go to the High Court. My proposal is that we do not need the new insertion.

THE DEPUTY CHAIRPERSON: The Attorney-General is proposing that once you are not satisfied, you go for judicial review. I want to get your views, honourable colleagues.

MS NYAKIKONGORO: Thank you, Mr Chairperson. I want to concur with the committee that we need a tribunal because it takes long when you go for judicial arbitration and this is business. In a tribunal, the two parties sit and agree. Sometimes they hold monies and businesses get stuck. It is a part time tribunal and does not sit throughout. The tribunal has been used by Electricity Regulation Authority, Uganda Revenue Authority and it also been used by the Leadership Code Act. It will help to unlock things.

MR OLANYA: Thank you, Mr Chairperson. Given the situation we are in, if we create many entities and programmes, when the right time comes, there will be no money for the tribunal to sit and no work will move on. Let the aggrieved person go to the High Court rather than creating so many entities that may infringe onto the Consolidated Fund.

MS KATALI: Thank you, Mr Chairperson. I agree with the Attorney-General that we should not create another entity. We agreed that we should not be creating entities, but we are busy creating entities, meaning we will need more funds. My proposal is for us to leave out this tribunal.

THE DEPUTY CHAIRPERSON: I put the question as to whether we need a tribunal or not.

(Question put and negatived.)

Clause 27

THE DEPUTY CHAIRPERSON: Let us have order in the House. Honourable colleagues, let us listen to one another. Committee chairperson?

MS CATHERINE LAMWAKA: Mr Chairperson, Clause 27 is amended by substituting it for the following –

- (1) An appeal shall lie against any order made by the Commission to the tribunal.
- (2) An appeal under this section shall be made within 30 days from the date of the decision or order appealed against.
- (3) An appeal shall lie against any order made by the tribunal to the Court of Appeal.

THE DEPUTY CHAIRPERSON: Hon. Basalirwa, can we maintain Clause 27?

MR BASALIRWA: Mr Chairperson, I propose we maintain Clause 27 as is in the Bill. The issues that the committee chairperson is raising can be best captured in Clause 28 and its details can come under the regulations.

THE DEPUTY CHAIRPERSON: I put the question that clause 27 stands part of the Bill.

(Question put and agreed to.)

Clause 27 agreed to.

Clause 28

THE DEPUTY CHAIRPERSON: Committee chairperson? I put the question that Clause 28 - Do you have a new clause? I called you and you were not coming.

MS CATHERINE LAMWAKA: Insert a new part immediately after part five to provide as follows –

“Funds of the Commission and the tribunal”, which will now be “funds for the Commission”.

THE DEPUTY CHAIRPERSON: Withdraw tribunal because we have not provided for it.

MS CATHERINE LAMWAKA: Insert a new part immediately after part five to provide as follows -

Funds of the Commission

- (1) The funds of the commission shall consist of-
 - (a) monies appropriated by Parliament for the purposes of Commission; and
 - (b) grants or monies donated to the Commission with the approval of the minister responsible for finance.
- (2) The Commission shall, in the performance of its functions under this Act, comply with the Public Finance Management Act.

Justification

To provide for funds of the Commission.

THE DEPUTY CHAIRPERSON: Honourable minister? Honourable colleagues, I have to start with the minister. I will appoint you ministers if you continue behaving like this. *(Laughter)*

MR BAHATI: Mr Chairperson, this is a component that had been missed out on the Commission as raised by a member. I think it is appropriate and I agree with it.

THE DEPUTY CHAIRPERSON: Hon. Nandala-Mafabi, does it address your concern?

MR NANDALA-MAFABI: Mr Chairman, it is appropriate, but we have to make it clear here so that we make the amendments. One of the things I wanted to make clear is if you start bringing sub-clauses (b) and (c) here, it is going to be dangerous.

It is now known that the money of the Commission shall be money appropriated by Parliament and we shall follow the Public Finance Management Act. If anything like a grant or something else comes up, it has to come to Parliament for appropriation.

THE DEPUTY CHAIRPERSON: Committee chairperson?

MS CATHERINE LAMWAKA: Mr Chairperson, I concede.

THE DEPUTY CHAIRPERSON: Thank you. I put the question – Yes, clarification.

MS AISHA KABANDA: Thank you, Mr Chairperson. The spirit of that clause was finding resources for the tribunal. The tribunal has been dropped and now we are putting the Commission. But earlier, the committee chairperson's justification for the Commission was that there is money from COMESA and it would also get money from fines. Now, all these have been left out. Can I get clarification where those resources will be put or where they are taken care of?

THE DEPUTY CHAIRPERSON: Honourable minister, you can help on that with your experience in budgeting.

MR BAHATI: According to the Public Finance Management Act, all monies, whether through grants or other sources, go to the Consolidated Fund so, it is in line.

THE DEPUTY CHAIRPERSON: Honourable colleagues, I put the question that the new clause – *(Mr Nandala-Mafabi rose)* Honourable, it is the one we have just finished.

MR NANDALA-MAFABI: Mr Chairman, since you have finished the income, I can now bring the issue of reporting because that is where we can fix all of them.

THE DEPUTY CHAIRPERSON: I thought the Public Finance Management Act also addresses the issue of reporting.

MR NANDALA-MAFABI: It addresses, but specifically for reporting –

THE DEPUTY CHAIRPERSON: Honourable minister, does the Public Finance Management Act address the issue of reporting? It does because when you refer to the Public Finance Management Act -

MR BAHATI: Mr Chairperson, the Public Finance Management Act and the National Audit Act require any institution that gets any money from the Government to be audited at the end of every financial year and the Auditor-General is an officer of Parliament and reports back to Parliament. So, it is already clear.

THE DEPUTY CHAIRPERSON: Hon. Nandala-Mafabi, would that be okay?

MR NANDALA-MAFABI: That is true. We must put in this law the accounting period because not all entities have taken their accounting in line with the Government period and the Attorney-General knows this. For purposes of this law, the accounting period would be the same as the Government of Uganda accounting period.

THE DEPUTY CHAIRPERSON: That is your proposal, we can capture that. Attorney-General?

MR KAFUZI: Mr Chairperson, for purposes of clarity and to avoid whoever will be in charge at some point dilly-dallying, we can have him bound by the law just like other accounting officers. Therefore, we can adopt his proposal.

THE DEPUTY CHAIRPERSON: Yes, it is very clear. Hon. Nandala-Mafabi has clearly said their accounting period shall be the same as Government period. I put the question that a new clause be inserted.

(Question put and agreed to.)

New clause, inserted.

Clause 28

MS CATHERINE LAMWAKA: Mr Chairperson, before Clause 28 -

THE DEPUTY CHAIRPERSON: Are you proposing a new clause?

MS CATHERINE LAMWAKA: Insertion of a new clause. Insert a new provision immediately after Clause 27 as follows:

“Leniency Programme

1. The Commission may operate a leniency programme where an enterprise that voluntarily discloses the existence of an agreement that is prohibited under this Act and cooperates with the Commission in the investigation of the practice may not be subject to all or part of a fine that could otherwise be imposed under this Act.
2. The details of a leniency programme under sub-section (1) shall be set out in guidelines of the Commission.”

The justification is to provide for a leniency programme for the Competition and Consumer Protection Commission.

THE DEPUTY CHAIRPERSON: I thought you wanted to bite. Now you are releasing. Honourable minister?

MR BAHATI: Mr Chairperson, earlier on we were being very strict on the minister and noticed that they can be conflicted. Now we are not only being lenient on the commission, we are even entrenching it in the law. I think this proposal will compromise the independence of the commission. We should instead empower the commission to be as strict as possible because controlling unfair competition in the market needs people and institutions which are very strict.

THE DEPUTY CHAIRPERSON: Committee chairperson?

MS CATHERINE LAMWAKA: Mr Chairperson, I concede.

THE DEPUTY CHAIRPERSON: Thank you. Next?

Clause 28

THE DEPUTY CHAIRPERSON: I put the question that Clause 28 stands as part of the Bill, but before voting, Hon. Sarah, I need to hear from you.

MS OPENDI: Thank you very much, Mr Chairperson. We have had a challenge here where we pass laws. Since 1988, this law has taken the Government forever to bring. I just talked about the Narcotic Drugs and Psychotropic Substances (Control) Act, which was passed in 2015, but Government failed to bring its regulations until it was struck out by court.

I would like to propose that the minister makes the regulations within one year from the date of assent.

THE DEPUTY CHAIRPERSON: Six months, like we did yesterday.

MS OPENDI: We can say within six months. The second issue I would like to propose is Clause 28 paragraph (j) - and you never know, the commission may collect non-tax revenue.

I propose that the new paragraph (j) would read, “Prescribe fees for anything done under this Act” so that the commission can generate some non-tax revenue.

THE DEPUTY CHAIRPERSON: But the commission can only generate revenue through penalties which are already prescribed under the Act.

MS OPENDI: But it will be collected under the Consolidated Fund so I do not see any harm. I am borrowing from what we did in the Landlord and Tenant Act. It says, “The minister may, by statutory instrument, make regulations for giving effect to this Act without prejudice

to the general effect of the regulations made under..." May provide for any of the following matters - So, I do not see any harm if we said prescribe fees for anything.

THE DEPUTY CHAIRPERSON: This is a regulator and a regulator should only be able to regulate, punish and collect fees from penalties. The moment you give leeway for them to go and create other room, you are creating trouble. This is a totally different law which is about regulation. Honourable minister?

MR BAHATI: Mr Chairperson, since we have provided that the funds of this commission will be appropriated by Parliament, that is sufficient. If again you want the commission to start charging fees, that will be a little bit tricky. Let us restrict ourselves on the other one.

On the second point, Mr Chairperson, where you asked whether we agree with the six months vis-a-vis one year, our Government believes in efficiency so, six months would be sufficient to bring the regulations here.

THE DEPUTY CHAIRPERSON: The minister will create regulations, but the rest of the work will be done by the commission. Hon. Sarah, on the six months, the minister has agreed.

MS OPENDI: The new insertion says the minister "may", not the commission. That is why I was saying the minister may prescribe fees under this Act.

MR AKAMBA: My proposal on the amendment Hon. Sarah has just proposed is that this Parliament cannot legislate uncertainties. We must be certain of what we are legislating and saying that we should leave it for the minister - In case there are any other charges the minister might want to prescribe, that would be wrong legislation, in my opinion.

THE DEPUTY CHAIRPERSON: I am going to put the question on the proposal that the minister charges fees. [*Member: "Order."*] There is no one holding the Floor for you to apply a point of order; he took off. Honourable

colleagues, I put the question on the proposal to allow the minister to charge fees.

(Question put and negatived.)

THE DEPUTY CHAIRPERSON: I am putting a question on the clause because there is a proposal which the minister conceded to. I put the question that Clause 28 be amended as proposed, that is, for the minister to bring the regulations within six months.

(Question put and agreed to.)

Clause 28, as amended, agreed to.

Clause 29, agreed to.

Clause 1

THE DEPUTY CHAIRPERSON: Honourable members, we are now going back to Clause 1, which was on application. We stood over it. We stood over Clauses 1, 2 and 8. Clause 14 is for recommitment – in case you are interested.

Committee chairperson, you had already finished your part. Hon. Nandala-Mafabi had an issue.

MR NANDALA-MAFABI: Thank you very much, Mr Chairperson. We have now created a Commission, which is going to guide both the Government and private sector. My proposal on Clause 1 will be that this law applies to anti-competition practices and agreements, abuse of dominant positions and effects of mergers, acquisition and joint ventures on competition, including government entities.

The justification is, this is to avoid the Government creating an agreement where it would be in an unfair competition with the private sector. *(Applause)*

MR KAFUZI: Mr Chairperson, it is obvious that the law applies to all entities, both private and government. We do not have to make specific proviso to that effect.

THE DEPUTY CHAIRPERSON: You see, if the law was specific, for example mentioning the private sector, you would then need to mention “government”. However, it is clearly open. You do not legislate by suspicion. If you are driven by suspicion, it becomes difficult. It is general and applies to everyone. Good draftsmanship states that you do not go into the nitty gritty, unless you see a gap, Hon. Nandala-Mafabi.

MR NANDALA-MAFABI: I have seen the gap, Mr Chairperson. They have said the Act does not apply – the moment we do that, we are not going to have sub-clauses (2) and (3) because that is where the problem is. They are saying this Act does not apply – they are now bringing in the Government.

Our proposal is, if we leave it at that, let us delete sub-clauses (2) and (3) to avoid rice dealers from getting chits from the Ministry of Trade, Industry and Cooperatives.

THE DEPUTY CHAIRPERSON: Attorney-General? This is a good proposal. Let us delete them so that it remains general.

MR KAFUZI: I concede.

THE DEPUTY CHAIRPERSON: Honourable members, I put the question that – Yes, Hon. Akamba?

MR AKAMBA: Mr Chairperson, I have a problem with the way the proposed amendment is drafted in clause 1(1) – “This Act applies to all economic activity within or having an effect within Uganda.”

I think it would be proper if we drafted it to read, “This Act applies to any person engaged in any economic activity within or having an effect within Uganda.”

The justification is that you cannot enforce the law on economic activities, but on persons carrying out the economic activities. That is my proposal.

THE DEPUTY CHAIRPERSON: Honourable colleagues, if you look at the principal Bill and drop the proposals by the committee and then delete sub-clauses (2) and (3) of the principal Bill, you will remain with something very clear and without any ambiguity. *(Applause)*

It says: “This Act applies to anti-competitive practices and agreements, abuse of dominant position and effects of mergers, acquisitions and joint ventures on competition.” It is dry and clean. You would remove all the suspicion. Hon. Akamba?

MR AKAMBA: I concede.

THE DEPUTY CHAIRPERSON: Very good. Honourable members, I put the question that Clause 1 be amended as proposed.

(Question put and agreed to.)

Clause 1, as amended, agreed to.

MR NANDALA-MAFABI: There are two amendments that we have moved. I have moved an amendment –

THE DEPUTY CHAIRPERSON: No, we will go with the last one. We are maintaining sub-clause (1) in the mother Bill. That is why we go back and clean up with the *Hansard*. Thank you.

Clause 2

THE DEPUTY CHAIRPERSON: Clause 2 is definition so, let us conclude clause 8 and then come back to clause 2.

Clause 8

THE DEPUTY CHAIRPERSON: Committee chairperson, I think you had read it. What we need are Members who had issues. Who had an issue, honourable members?

MR BASALIRWA: The learned Attorney-General, I see that clause 8 is creating civil liability only; the element of criminal liability

is lacking. In terms of effectiveness, do you want it to be like that?

When you look at it closely, for example, clause 8(2) says: “Any agreement, decision, concerted action or practice that contravenes sub-section (1) is void.” Do you prefer that we end at being void?

MR KAFUZI: I am happy that Hon. Asuman Basalirwa has highlighted that because it leaves the clause hanging. Ideally, you should have a punitive arm. Yes, you are making it prohibitive by saying it is void, but in the event that it is void, what else happens? We can maybe add something like “whoever is found in contravention commits an offence”. The draftspeople can help.

Like Hon. Basalirwa has said, Clause 8 seems to be creating civil offences. I am looking at Clause 8(3)(d) which specifically talks of action that directly or indirectly results in bid rigging or collusive tendering, which, in essence, is some bit of criminal activity. I would like our draftspeople to look at this further.

THE DEPUTY CHAIRPERSON: Honourable member, the draftspeople are strangers to this House; we do not recognise them here.

MR KAFUZI: What we are trying to say is that whoever is involved in bid rigging or collusive tendering commits an offence and can be held liable.

THE DEPUTY CHAIRPERSON: We have several offences which we had created under Clause 14 and Clause 18. We can specify this clearly, Hon. Basalirwa. Do not only ask questions; also give proposals so that we move.

MR BASALIRWA: Well, I am not the Attorney-General.

THE DEPUTY CHAIRPERSON: You are a Member of Parliament.

MR BASALIRWA: I do not want to become the Attorney-General; I want to become the

other one which you know. We could work with the Attorney-General because this does not only affect Clause 8. When you look at Clauses 8 and 9, you will see that there are many hanging prohibitions so maybe we can have a few minutes, as other issues are being discussed, and give it some attention to create a better Bill.

THE DEPUTY CHAIRPERSON: That can be done. For now, your technical people are listening in so they should be -

MR AKAMBA: Mr Chairperson, mine is not so different from that of Hon. Asuman. I propose that as they draft it, it should come at the end of this part of prohibition. It should be the last clause that creates an offence and the penalty to that effect.

THE DEPUTY CHAIRPERSON: Is it on Clause 8 or all these clauses which he says are hanging? It should be able to cover all the clauses under that part.

MR AKAMBA: Yes, that would be neater.

THE DEPUTY CHAIRPERSON: The Attorney-General is listening.

MR SIMON OPOLOT: I am seeking clarification regarding Clause 8; how it is applicable to those existing agreements that Government already entered into with some entities and they are still ongoing for 10 years or 15 years? For example, there are joint ventures with a Germany company, Veridos -

THE DEPUTY CHAIRPERSON: The principle of retrospective legislation will apply; the Constitution is clear on that.

MR SIMON OPOLOT: Okay.

MR ISINGOMA-MWESIGWA: Still on Clause 8, I noticed that in most of the clauses, the word “person” and “enterprise” have been used co-currently. Here, the term “enterprise” has been left out. I do not know whether it is an omission.

THE DEPUTY CHAIRPERSON: Where exactly has it been left out in Clause 8?

MR ISONGOMA-MWESIGWA: In Clause 8(1) and yet it is a very important clause because it deals with the prohibition of the anti-competitive practices and agreements.

MR KAFUZI: Mr Chairperson, an enterprise is a legal person so, the word “person” still applies to an enterprise.

MR ISINGOMA-MWESIGWA: The word “person” has not been defined. When we go to the definition, we shall -

THE DEPUTY CHAIRPERSON: For clarity, if we added it, would it cause any harm?

MR KAFUZI: Mr Chairperson, I think we would be over legislating. It is a legally known principle that a legal entity, an enterprise or a company is also a person so, you need not go and define that.

MR NANDALA-MAFABI: Mr Chairperson, the reason we stopped was because of definitions, but what Hon. Isingoma has brought up - There are places where you are putting the words “enterprise” and “person.” For purposes of being a good law, it should have the word “person”; a person means an individual, company or a joint venture.

THE DEPUTY CHAIRPERSON: So, should we remove “enterprise” for consistency purposes?

MR NANDALA-MAFABI: Yes.

THE DEPUTY CHAIRPERSON: Does that lead to more consequential amendments or is it only on Clause 8?

MR NANDALA-MAFABI: No, there are some inside here, Mr Chairman; I cannot pick one immediately.

THE DEPUTY CHAIRPERSON: The reason I am asking is, we can make a blanket resolution that wherever the word “enterprise”

appears, it should be replaced with the word “person.” Then, when our draftspeople are cleaning up the Bill, they will just do that basing on our resolution.

MR NANDALA-MAFABI: Mr Chairperson, it is even in the definition clause; it says, “... a firm, partnership, corporation, company, association.” That is where the problem is on page 5 and yet if we put “a person”, it would be very simple because a person is known locally as an individual or a company.

THE DEPUTY CHAIRPERSON: So, that would mean that when we reach Clause 2, we again delete the definition of enterprise so that we just leave -

MR KAFUZI: Mr Chairperson, I believe Hon. Nandala-Mafabi is right. For purposes of clarity, let us use one word; “person” which also means and includes enterprise and other businesses.

THE DEPUTY CHAIRPERSON: Okay, note it so that when we go back to Clause 2, we delete “enterprise.”

MR NANDALA-MAFABI: Finally, I want to ask the minister; do you concur with the committee deleting “bid rigging?” In my view, not everything can be in the interpretation section. Bid rigging specifically has two words - “bid” and “rigging”.

In the interpretation, you always take one word so this one can be a special case to leave “bid rigging” here for the purpose of defining what it means under this section.

THE DEPUTY CHAIRPERSON: Honourable colleagues, behaviours keep changing. Why didn’t we leave that to the regulations? New techniques and technologies are coming up; the minister can always update -

MR KAFUZI: Mr Chairperson, in bid rigging, you are basically using your own means to influence the end result. When you take it to the interpretation section, you may not ably encompass all the means that might be

involved in bid rigging, unless you are simply going to call it “influencing the process” or “unfairly/unjustly getting a result” in which case, you are going to confuse the whole thing.

I would rather we leave it as it is so that the Commission that is hearing the complaint can then determine whether there was actual bid rigging based on the facts and circumstances of each case.

MR NANDALA-MAFABI: Attorney-General, are you agreeing with me that bid rigging should be left under Clause 8 instead of taking it to the interpretation clause? Clause 8 should define bid rigging - Are you agreeing with me instead of the committee?

MR KAFUZI: Yes, I agree that bid rigging be left under Clause 8 because putting it in the interpretation clause limits it.

THE DEPUTY CHAIRPERSON: Thank you. Attorney-General, did you get the drafting? I put the question that Clause 8 be amended as proposed.

(Question put and agreed to.)

Clause 8, as amended, agreed to.

Clause 2

THE DEPUTY CHAIRPERSON: Committee Chairperson, you can present Clause 2, which is the interpretation clause. That is the final clause.

MS CATHERINE LAMWAKA: Clause 2 is amended as follows –

(a) by inserting the following definitions in their appropriate alphabetical order.

“Anti-competitive practice or agreement” includes a practice or agreement which involves the taking of a decision or engaging in any concerted action or practice in respect of production, supply, distribution or control of goods or the provision of services which causes or is likely to cause an adverse effect on competition.

“Competition” means the striving or potential striving of two or more persons or enterprises engaged in the production, distribution, supply, purchase, or consumption of goods and services in each market in Uganda against one another which results in greater efficiency, high economic growth, increasing employment opportunities, lower prices and improved choices for consumers;”

“Commission” means the Competition and Consumer Protection Commission established under Section 3 of this Act;

“Concerted action or practice” means a practice that involves some form of communication or coordination between competitors falling short of an actual agreement, but which replaces their independent action and restricts or lessens competition between them;

“Countervailing market power” means the bargaining power of the purchasers in the economy;

“Dominant position” means a position of economic strength enjoyed by an enterprise individually or collectively which gives it the power to behave independently of its competitors, customers and consumers and in particular to foreclose another enterprise from competing in the relevant market;

“Exclusive distribution agreement” means an agreement between a distributor company and a supplier company that grants the distributor exclusive rights to sell the supplier’s goods or services;

“Exclusive supply arrangement” means a legal agreement between two parties in which one party imposes restrictions on the other party’s freedom to make choices with whom or where they do business;

“Horizontal agreement” means an agreement between enterprises each of which operates, for the purpose of the agreement, at the same level of the market

and would normally be actual or potential competitors in that market;

“Market” means a market in Uganda or a substantial part of Uganda and refers to the range of reasonable possibilities for substitution in supply or demand between kinds of goods or services and between suppliers or customers, or potential suppliers or customers of those goods or services;

“Predatory pricing” means a strategy where firms sell their products below cost to drive competitors out of the market;

“Price squeezing” means a pricing practice of an enterprise that is operating in an upstream market or a downstream market and charges its consumers the upstream prices, which do not allow some consumers to compete in the downstream markets;

“Refusal to deal” means an undertaking which denies supplying another undertaking with its product or service and includes not only blatant refusal, but also subtle refusal which conditions they supply on unreasonable conditions, such as unacceptably high prices;

“Resale price maintenance” means an agreement between a supplier and a dealer whose object or effect is, directly or indirectly, to fix a minimum selling price to be used by the dealer when re-selling goods to customers;

“Tie-in arrangement” means an often illegal agreement by one party to sell a product or service only on condition that the buyer will also purchase another different product or service or will not purchase the product or service from any other supplier or will adhere to some other restriction;

“Turnover” means the latest audited gross sales of an enterprise;

“Vertical agreement” means an agreement between enterprises each of which operates, for the purposes of the

agreement, at a different level of the production or distribution chain and relates to the conditions under which the parties may purchase, sell or resell certain goods or services;

Justification

The insertion of new definitions is for clarity.

THE DEPUTY CHAIRPERSON: Thank you. Among all these, we just dropped the tribunal because we did not agree to it. Do you agree with the definitions before we go to others that we want to add?

MR NANDALA-MAFABI: I want to make it clear that “bid-rigging” has been dropped here, but is maintained in Clause 8. The reason we are raising this is sometimes even draftsmen forget to add them and we get problems.

THE DEPUTY CHAIRPERSON: I will ensure that we get clarity on these issues.

MR NANDALA-MAFABI: I thought we dropped the word “horizontal” and “vertical” in the main report.

THE DEPUTY CHAIRPERSON: We did not. We also agreed to drop the words “enterprise” and “bid-rigging”. I put the question that Clause 2 – Hon. Nandala-Mafabi, do you want to add something?

MR NANDALA-MAFABI: Remember we defined the word “consumer” and now we have a producer. I now want to bring a definition for the word “producer”. It reads, “A producer means a person who is engaged in producing goods or services to be used by others in their businesses”.

Justification

There are those who produce raw materials for others to get final products.

THE DEPUTY CHAIRPERSON: Attorney-General, would that be broad enough? I think it is simple and broad.

MR KAFUZI: My worry is if he says a producer is one who produces a product for others to use in their businesses - When you end by saying, “in their businesses”, if you are a producer and I consume your product, is “consuming” my business? It is a bit vague; we would rather leave it.

THE DEPUTY CHAIRPERSON: No, you may disagree, but since we introduced a definition for the word “consumer”, you also need to define the word “producer”.

MR KAFUZI: Mr Chairman, if we are to define the word “producer”, a manufacturer is also a producer and producing means going through different stages. We can say a producer is one who is involved in the production of goods and services.

THE DEPUTY CHAIRPERSON: Honourable colleagues, that is enough; we cannot end on this. I put the question that Clause 2 be amended as proposed.

(Question put and agreed to.)

Clause 2, as amended, agreed to.

Schedule, agreed to.

The Title, agreed to.

MOTION FOR THE HOUSE TO RESUME

3.40

THE MINISTER OF STATE FOR TRADE, INDUSTRY AND COOPERATIVES (INDUSTRY) (Mr David Bahati): Mr Chairperson, I beg to move that the House do resume and the Committee of the whole House reports thereto.

THE DEPUTY CHAIRPERSON: I put the question that the House resumes and the Committee of the whole House reports thereto.

(Question put and agreed to.)

(The House resumed, the Deputy Speaker presiding_)

REPORT FROM THE COMMITTEE OF THE WHOLE HOUSE

3.42

THE MINISTER OF STATE FOR TRADE, INDUSTRY AND COOPERATIVES (INDUSTRY) (Mr David Bahati): Mr Speaker, I beg to report that the Committee of the whole House has considered the Bill entitled, “The Competition Bill, 2022” and passed it with amendments.

MOTION FOR ADOPTION OF THE REPORT FROM THE COMMITTEE OF THE WHOLE HOUSE

3.43

THE MINISTER OF STATE FOR TRADE, INDUSTRY AND COOPERATIVES (INDUSTRY) (Mr David Bahati): Mr Speaker, I beg to move that the report from the Committee of the whole House be adopted.

THE DEPUTY SPEAKER: I put the question that the report of the Committee of the whole House be adopted.

(Question put and agreed to.)

Report adopted.

BILLS
THIRD READING

THE COMPETITION BILL, 2022

3.43

THE MINISTER OF STATE FOR TRADE, INDUSTRY AND COOPERATIVES (INDUSTRY) (Mr David Bahati): Mr Speaker, I beg to move that the Bill entitled, “The Competition Bill, 2022” be read the third time and do pass.

THE DEPUTY SPEAKER: There are Members who have some clauses they want to recommit. -

3.44

MS BETTY NALUYIMA (NUP, Woman Representative, Wakiso): Thank you, Mr Speaker. As the committee was deliberating

this very Bill, there were some clauses that needed to be recommitted. I, therefore, move under Rule 138 of the Rules of Procedure of Parliament and request this House to recommit clauses 14, 10 and 8.

There was even clause 9 because we did not substitute the word “ministry” with “commission.” It did not appear in the report. I beg to move.

THE DEPUTY SPEAKER: I put the question that the mentioned clauses be recommitted.

(Question put and agreed to.)

Clauses recommitted.

THE DEPUTY SPEAKER: Honourable member, do you also have one for recommitment?

3.45

MS AISHA KABANDA (NUP, Woman Representative, Butambala): Thank you, Mr Speaker. I beg to move that clause 4(i) be recommitted.

THE DEPUTY SPEAKER: We do not recommit in bits.

MS KABANDA: Mr Speaker, I beg to move that we recommit clause 4.

THE DEPUTY SPEAKER: What was that clause about?

MS KABANDA: Clause 4, initially was about the functions of the ministry. “Ministry” was substituted by “commission.” That was the only addition we made. We took it wholesomely, but there were other amendments that we may have looked at.

THE DEPUTY SPEAKER: But it was a consequential amendment.

MS KABANDA: Yes, it was a consequential amendment –

THE DEPUTY SPEAKER: You want to take us forever. Anyway, let me put the question.

It is the House to agree on whether we can recommend or not. I put the question that clause 4 be recommitted.

(Question put and negated.)

MS KABANDA: Mr Speaker, you did not give me the opportunity to explain. It is a simple thing. Let me talk about it.

THE DEPUTY SPEAKER: Honourable minister?

MS KABANDA: Mr Speaker –

THE DEPUTY SPEAKER: Honourable member, we have order. The question is done. The House has said they do not want to recommit.

BILLS

COMMITTEE STAGE

THE COMPETITION BILL, 2022

3.47

MS BETTY NAMBOOZE (NUP, Mukono Municipality, Mukono): Thank you, Mr Speaker. I beg for your indulgence. The fact of the matter is that I have not been around because of sickness. As I sat here, I was not able to make an input, but I am seeking your guidance.

As I sat here listening to Parliament going through the provisions of this law, I did not notice any sanctions and enforcement provisions. I need to be guided –

THE DEPUTY CHAIRPERSON: Just follow clauses 14 and 8, which have been recommitted. We are coming to it.

MS NAMBOOZE: Thank you.

THE DEPUTY CHAIRPERSON: Honourable colleagues, at this stage, we are only limited to what the House has allowed to be recommitted. I need us to move. You have moved that we recommit, Clerk can we move to the clauses?

Clause 8

MR KAFUZI: Mr Chairperson, we recommit clause 8 and say, “Clause 8 is amended by inserting immediately after subclause (2), the following:

‘A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding 100 currency points, or imprisonment not exceeding four years, or both.’”

THE DEPUTY CHAIRPERSON: But Hon. Akamba made a proposal that since you said you had other clauses, we introduce a clause at the end of part II that would cover all offences that would come under this.

MR NANDALA-MAFABI: As the Attorney-General is thinking, if you talk about subclause (1), even subclauses (2),(3) and (6); we have agreed all these are offenses. If you only talk about subclause (1), you are leaving others unless you say at the end of that clause 8, that;

“Anybody who infringes on any of these provisions commits an offence.”

THE DEPUTY CHAIRPERSON: Simple. That would cure all. Attorney-General, instead of covering only subclause (1)– Hon. Namboze, it should not disturb you. In the draftsmanship, you cannot create an offence in each subclause.

MS NAMBOZE: Mr Chairperson, what I am trying to say is that it is not common and I think it is not good law to have a single punishment for every offence. Not all offences carry similar damage. There are some, which are smaller and those where everybody can say, “This is a big offence and this is a small offence.” How can we have a single punishment for each and every offence under this Act?

THE DEPUTY CHAIRPERSON: Hon. Namboze, I would advise you to read clause 8. You would get a solution. Unfortunately, the stage we are at, we cannot go back. We have been here since morning and have done a lot of work.

MR KAFUZI: Mr Chairperson, I concede to Hon. Nandala-Mafabi’s proposal.

THE DEPUTY CHAIRPERSON: Thank you. Honourable colleagues, I put the question that clause 8 as amended, stands part of the Bill.

(Question put and agreed to.)

Clause 8, as amended, agreed to.

Clause 9

THE DEPUTY CHAIRPERSON: Does anyone have an issue with clause 9?

MS NALUYIMA: Mr Chairperson, it is consequential and the committee did not report on it. Instead of “Ministry”, we have “Commission”.

THE DEPUTY CHAIRPERSON: Committee chairperson, is that okay?

I put the question that clause 9 be amended as proposed.

(Question put and agreed to.)

Clause 9, as amended, agreed to.

Clause 10

MR KAFUZI: Mr Chairman, reading through the redraft here would place clause 10, under the proposal of Hon. Nandala, that we have one. The redraft says: “Clause 10 is amended by inserting immediately after subsection (3), the following-

“A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding one hundred currency points or imprisonment for a period not exceeding four years or both.”

THE DEPUTY CHAIRPERSON: I put the question that clause 10 be amended as proposed.

(Question put and agreed to.)

Clause 10, as amended, agreed to.

Clause 14

MR KAFUZI: Mr Chairman, clause 14(6) reads: “A person who is required to give notice of a merger, acquisition or a joint venture to the Commission under subsection (1), but fails to do so commits an offence and is liable, on conviction, to pay a fine not exceeding 10 per cent of his annual turnover.”

THE DEPUTY CHAIRPERSON: It is a person, so, it can be a company – we are having one standard language.

Committee chairperson?

MS CATHERINE LAMWAKA: Clause 14 is amended further by inserting immediately after subclause 9 the following-

“A person who being a party to a merger, acquisition or joint venture;

- (a) Makes a statement which is false in any material particular knowing it to be false, or
- (b) Omits any material particular knowing it to be material commits an offence and is liable, on conviction, to a fine not exceeding one thousand two hundred and fifty currency points or imprisonment not exceeding 10 years or both.”

Mr Chairman the justification is to provide a penalty for failure to give notice. As the Attorney-General read, we are in agreement.

The second justification is that this is to penalise a person or persons for uttering false statements or omission to furnish material information.

The final justification is to incorporate clause 18, which was deleted.

MR NANDALA-MAFABI: Mr Chairman, I want the Attorney-General to help me. Let me give an example of Shell acquiring Nandala.

Whose turnovers are you going to use? Let us say Shell has a turnover of about Shs 500 billion, while Nandala has a turnover of Shs 30 billion, whose turnover are we going to use?

Secondly, why are you not also using currency points and years? If you are saying 10 per cent, why are you leaving out imprisonment to make sure that the next group of persons do not do it?

MR KAFUZI: Mr Chairman, I will start with question number two. We are dealing with an enterprise –

THE DEPUTY CHAIRPERSON: We are dealing with a person. Let us continue with the language.

MR KAFUZI: We are dealing with a legal enterprise known as a person. If you talk of imprisonment, you will be required to lift the veil and determine which of the directors is directly liable for this. We want to look at the enterprise or legal entity, as being involved in this misconduct and that is what we are prohibiting and punishing.

Your first question was about turnover – two companies are involved in the merger or acquisition; whose turnover are you using? As the English say, “It takes two to tango”. When we are talking of a merger, you are talking of two entities. It means they have both colluded to enter into this arrangement and do not wish to declare the truth to the commission. So, the commission should merge their turnover and make a determination accordingly.

MR NANDALA-MAFABI: I agree with that one. However, if you are saying a company cannot go to prison, can a company write a letter? You are saying a company will have to give notice? Does a company write a letter? It cannot. So, the person who is supposed to have given notice should be the one to be held liable and to go to prison.

THE DEPUTY CHAIRPERSON: Hon. Nandala, wouldn't the monetary charges be enough?

MR NANDALA-MAFABI: Mr Chairman, it would be enough, but it should be punitive and deterrent. You see, somebody can pay a trillion shillings and not go to prison. In most cases, the person who pays in these companies is not bothered, but it is the shareholders who are affected.

MS AISHA NALULE: Mr Chairman, I agree with Hon. Nandala. Whereas we need our sanctions to be punitive enough, we should also not strangle the organisations because we need them to continue employing people. I look at 10 per cent of turnovers as being extremely harsh. Sometimes, it could eat into the capital. Why don't we talk of maybe 10 per cent of the profit? Ten per cent of turnover can eat into a company and they close, yet the company actually offers other services to the people. Let us go to the people who have failed to do what they should have done.

MR EDAKASI ELALU: Thank you, Mr Chairman. When we did benchmarking in Zambia, we found out that where the currency points were smaller, some of these entities deliberately commit this offence and pay for it. That is why we considered the idea of turnover. Turnover is what hits the big company.

It should also be noted that the law will apply to a threshold. So, it is not this small Nandala, but we are talking about a certain threshold – the Shells of this world. Those people are not scared of paying 100 currency points. They can even pay it a hundred times. However, they will be scared if the law is targeting the turnover and imprisonment.

THE DEPUTY CHAIRPERSON: Honourable colleagues, in one of the countries, they issue anticipated bail. Hon. Basalirwa, is that anticipated bail. So, many people move with bail documents. They go to court, apply and pay. If you go to arrest him, he says: "I already have bail from the court." *(Laughter)* I have been reading it in the news and it was really funny – I know I am going to commit a crime, so, I better insure myself; it becomes insurance. We need to be punitive enough. We need to be punitive enough.

MR KAFUZI: There are two issues that were raised; there was one by Hon. Aisha relating to the punitive nature or the degrees of punishment that we are proposing. Like the Hon. Edakasi has said - a merger and acquisition is a business that has been calculated by both entities. It is actually a marriage that has been calculated by both entities. They know that at the end of it all, it is very beneficial to them.

For you to ask for a small token - they can sacrifice that and get it over with. It is ideal that we propose this percentage so that whoever is to engage in this merger or acquisition knows that there are rules and regulations that he must abide by.

THE DEPUTY CHAIRPERSON: Honourable colleagues, I put the question that clause 14 is amended as proposed.

(Question put and agreed to.)

Clause 14, as amended, agreed to.

MOTION FOR THE HOUSE TO RESUME

4.03

THE MINISTER OF STATE FOR TRADE, INDUSTRY AND COOPERATIVES (INDUSTRY) (Mr David Bahati): Mr Chairperson, I beg to move that the House do resume and the Committee of the whole House reports thereto.

THE DEPUTY CHAIRPERSON: I put the question that the House do resume and the Committee of the whole House reports thereto.

(Question put and agreed to.)

(The House resumed, the Deputy Speaker presiding_)

REPORT FROM THE COMMITTEE OF
THE WHOLE HOUSE

4.03

THE MINISTER OF STATE FOR TRADE, INDUSTRY AND COOPERATIVES (INDUSTRY) (Mr David Bahati): Mr Speaker, I beg to report that the Committee of the whole House has considered the Bill entitled, “The Competition Bill, 2022” and passed the recommitted clauses; clauses 8,9,10 and 14 with amendments.

MOTION FOR ADOPTION OF THE
REPORT FROM THE COMMITTEE OF
THE WHOLE HOUSE

4.04

THE MINISTER OF STATE FOR TRADE, INDUSTRY AND COOPERATIVES (INDUSTRY) (Mr David Bahati): I beg to move that the report from the Committee of the whole House be adopted.

THE DEPUTY SPEAKER: I put the question that the report of the Committee of the Whole House be adopted.

(Question put and agreed to.)

Report adopted.

BILLS
THIRD READING

THE COMPETITION BILL, 2022

4.04

THE MINISTER OF STATE FOR TRADE, INDUSTRY AND COOPERATIVES (INDUSTRY) (Mr David Bahati): Mr Speaker, I beg to move that the Bill entitled, “The Competition Bill, 2022” be read a third time and do pass.

THE DEPUTY SPEAKER: I put the question that the Competition Bill, 2022, be read the third time and do pass.

(Question put and agreed to.)

A BILL FOR AN ACT ENTITLED, “THE
COMPETITION ACT, 2023”

THE DEPUTY SPEAKER: Honourable members, I thank you for considering this Bill. *(Applause)* I think we do not have any pending Government Bill this session; we have done our part. I congratulate you.

Committee chairperson, your vice-chairperson and the whole committee, I thank you. Attorney-General, we want to say thank you. Honourable members, who have been here, you have done a wonderful job since Monday. I appreciate you. *(Applause)*

Honourable minister, I had requested you to update us on the Consumer Protection Bill.

4.05

THE MINISTER OF STATE FOR TRADE, INDUSTRY AND COOPERATIVES (INDUSTRY) (Mr David Bahati): Mr. Speaker, I join you in appreciating you for the good work that you have done over this Bill. I also thank my colleagues, the Members, for their support to this Bill.

The issue of the Consumer Protection Bill is within the process and we request that you give us two months, so that we can report to the House with the Bill because it is in an advanced stage of processing.

THE DEPUTY SPEAKER: Thank you. Honourable members, House suspended for 30 minutes. Have a quick lunch break and then we resume.

(The House was suspended at 4.06 p.m.)

(On resumption at 5.15, the Deputy Speaker presiding_)

THE DEPUTY SPEAKER: I need the Chairperson, Committee on National Economy in the House. Get him for me. In the meantime, I can take a few matters of national importance and the ministers can be answering them. Hon. Robina Rwakoojo?

5.16

MS ROBINA RWAKOOJO (NRM, Gomba West County, Gomba): Thank you, Mr Speaker. I would like to thank the Government of Uganda and the President for the Mpigi-Kanoni-Maddu-Sembabule-Villa Maria road. It eased communication in Gomba and often acts as an alternative route like during the Christmas Season when traffic is high on the Kampala-Masaka road.

I am concerned about the very high density of traffic in the form of big buses, trailers, omnibuses and personal vehicles. The road has several corners and the new users are just getting to understand the shape and condition of the road. There is a lot of reckless driving, overspeeding even in the corners, trailers overtaking other trailers and yet they are slow. People are losing lives almost every day and schools are about to begin. I fear that as people are crossing the road, they may lose their lives.

There is increased human activity in our district and new people are coming into the district. So, we have both positive and negative things that have been happening. The positive ones: increased business and increased travel, but the negative ones: increased deaths on the roads, and breaking of traffic rules and regulations.

My prayer: I would like the intervention of a joint agency team comprising the Ministry of Works and Transport, Uganda Roads Authority (UNRA), Uganda Police Force and Gomba District officials and other relevant stakeholders.

I also request for temporary zebra crossing and weighbridges. I beg to submit.

THE DEPUTY SPEAKER: Thank you. Government?

MR SSEMUGJU: Mr Speaker, Parliament is not like a talk show where you can speak and have a commercial break. In our rules, even a minister, when you are asking a colleague to stand in for you, you write formally to the Speaker. Things are not happening the way they should be. You can see how Hon. Musasizi was

laughing. You said Government and he stood up.

My procedural matter is whether the Government is fully constituted under our rules to transact Business because if the Prime Minister is not here, she must assign someone in writing under the rules.

THE DEPUTY SPEAKER: Thank you, Hon. Ssemujju. Let us expunge the issue raised by Hon. Ssemujju so that the Frontbench can mobilise itself. For now, let us go to item No.9. Hon. Betty Namboozee?

[Text expunged]

THE DEPUTY SPEAKER: Thank you. Honourable colleagues, I want us to be honest; I came walking together with Hon. Nandala-Mafabi, Hon. Mawanda and Hon. Mudimi. I was coming from my office and I found Hon. Namboozee standing with a certain gentleman, just the two of them. *(Laughter)* I have my witnesses.

Are you trying to blackmail me that I have militarised the place or I am surrounded by security? It is really bad. Honourable colleague, you resumed sessions yesterday; we have been doing business in peace. It is really bad; do not mudsling my name here. Hon. Nandala-Mafabi, I came with you.

5.22

MR NATHAN NANDALA-MAFABI (FDC, Budadiri County West, Sironko): Mr Speaker, we met downstairs. I met you with Hon. Mudimi and Hon. Mawanda. Even when you saw me, you said, "Where are you taking Hon. Mawanda? I am safe, come and join us." I want to confess; I never saw a policeman at that time and I want us to be realistic.

We came walking with the Deputy Speaker and we left him going to dress. Maybe my eyes do not see well; I never saw any police officer pushing anybody.

THE DEPUTY SPEAKER: Thank you. Honourable colleagues, let us move. I will

have a minute with Hon. Namboozie so that I know the intention of all this.

I had allowed Hon. Sarah Opendi, there is a statement to be laid. Kindly pass by the clerk so that the clerk can call the statement, you lay it and then we go to the report of the Committee on National Economy.

REPORT OF THE DELEGATION OF THE
67TH STATION OF THE COMMISSION ON
THE RESOURCE OF WOMEN FROM 6TH –
17TH MARCH 2023

THE DEPUTY SPEAKER: Hon. Sarah Opendi?

5.24

MS SARAH OPENDI (NRM, Woman Representative, Tororo): Thank you, Mr Speaker. This is a report of the delegation that was led by the Minister of Gender, Labour and Social Development to the 67th Commission on the Status of Women that was held in New York from the 6th-17th under the theme: “Innovation and Technological Change and Education in the Digital Age for Achieving Gender Equality and Empowerment of all Women and Girls.”

She was accompanied by nine Members of Parliament, the Minister of State for Gender, Labour and Social Development, Hon. Rukia Nakadama, the Minister for Presidency, Hon. Flavia Kabahenda, the Chairperson, the Committee on Gender, Labour and Social Development, Hon. Sarah Najjuma who is the deputy chairperson, Hon. John Musila -

THE DEPUTY SPEAKER: Honourable, lay your document.

MS OPENDI: Thank you, Mr Speaker. I would like to state that it is very unfortunate – *(Interruption)*

THE DEPUTY SPEAKER: Point of order?

MR SSEMUJUU: Mr Speaker, Parliament is a very serious institution where we lay only authentic documents. The Chairperson of UWOPA is laying a document saying that there

was a delegation which went to where she has mentioned, led by the Minister of Gender, Labour and Social Development. Among the people she led was a Deputy Prime Minister. *(Laughter)*

This is why I am now doubting the authenticity –*(Laughter)*- that a minister can lead a Prime Minister. *(Applause)*

So, is the Member in order to lie to Parliament that under NRM, things have disintegrated so much that a minister can lead a Prime Minister? Is she in order?

THE DEPUTY SPEAKER: Hon. Sarah Opendi, simply lay them on the Table without causing yourself more trouble. Do not try to justify; simply lay them.

MS OPENDI: Thank you, Mr Speaker. I just wanted to state that it is very unfortunate that meetings with clear themes have now turned into nothing, but promoting the LGBTQ agenda. We went to discuss matters of innovation, but found that whoever was standing up to speak was trying to talk about inclusion and the need to accommodate all these fellows.

Mr Speaker, I beg to lay the report of the committee.

[Text expunged]

MR NANDALA-MAFABI: Thank you, Mr Speaker. I have a procedural issue. When Hon. Sarah Opendi was making a presentation and mentioned LGBTQ - I recall my brother, Hon. John Musila had a uniform he was wearing when he was in America.

I want to know whether it is procedurally right to only give Hon. Musila uniform and not give us. *(Laughter)*

THE DEPUTY SPEAKER: Honourable members, the information I have is that Hon. Musila's attire was designed by some minds from Bugisu. Hon. Nandala-Mafabi who comes from Bugisu can explain to us better how they are very creative and why they excluded us.

Members, let us move. However, he was very smart and I really love Hon. Musila.

MOTION FOR ADOPTION OF THE
REPORT OF THE COMMITTEE
ON NATIONAL ECONOMY ON A
PROPOSAL FOR GOVERNMENT TO
UTILISE PART OF UGANDA'S IMF SDR
QUOTA ALLOCATION EQUIVALENT
TO \$250 MILLION, BORROW UP TO
SPECIAL DRAWING RIGHTS (SDR)
90 MILLION (APPROXIMATELY \$ 125
MILLION) FROM THE INTERNATIONAL
MONETARY FUND (IMF) AND BORROW
UP TO EUROS 500 MILLION FROM
AMAROG CAPITAL LTD (ACL),
SOVEREIGN INFRASTRUCTURE GROUP
(SOVINFRA) AND OTHER FINANCIAL
INSTITUTIONS TO FINANCE THE
GOVERNMENT OF UGANDA BUDGET
FOR THE FINANCIAL YEAR 2022/2023

THE DEPUTY SPEAKER: Honourable minister?

5.31

**THE MINISTER OF STATE FOR
FINANCE, PLANNING AND ECONOMIC
DEVELOPMENT (GENERAL DUTIES)**
(Mr Henry Musasizi): Thank you, Mr
Speaker. I seek guidance in view of the fact that
I would like to withdraw part of this motion. I
seek whether we should start with withdrawing
the bit.

THE DEPUTY SPEAKER: Would you like
to amend your motion?

MR MUSASIZI: Yes.

THE DEPUTY SPEAKER: If you want to
amend your motion, you can do so.

MR MUSASIZI: Mr Speaker, I beg to amend
the motion by deleting item three, which is
seeking to borrow up to £500 million from
Amarog Capital Ltd (ACL), Sovereign
Infrastructure Group (SOVINFRA) and other
financial institutions. *(Applause)*

THE DEPUTY SPEAKER: So, you want to
withdraw part of the financing? Is the motion

seconded? The minister wants to remove some
of the money he wants, but you want to force it
on him. Please, listen. The minister will justify
his motion.

It is seconded by Hon. Silas Aagon, Hon.
Rwemulikya, Hon. Alyek and Hon. Mudimi.
Honourable, can you justify why you are
amending the motion? Let the minister amend
his motion. Let him first justify. Procedure?

MS AISHA KABANDA: Thank you, Mr
Speaker. You put a question before this House
and an answer was passed, but you have not
given your ruling over that question.

THE DEPUTY SPEAKER: Didn't I
announce my ruling?

MS AISHA KABANDA: You put a question
and all of us said, "Nay".

THE DEPUTY SPEAKER: The "Ayes" had
it. *(Laughter)* Minister, justify your motion.
It is just a simple amendment of the motion.
Let us give him a chance and hear what he is
saying.

MR MUSASIZI: Mr Speaker, our move
to amend the motion is on two grounds. One
ground is that given the time we have, we have
not been able to gather all the information
required to justify why this company should
get this arrangement.

We have received new developments that the
company's experience is limited. It has not
handled transactions of this magnitude and
we feel we should do more work to get more
information about this company.

Two, yesterday, this company sent us
information –

THE DEPUTY SPEAKER: Please, stop
harassing me; I am here. When I want to pick
you, I will do so. You do not need to shout into
my ear many times.

MR MUSASIZI: Mr Speaker, we received
information from this company that they
wanted to change the terms by introducing an

item called insurance, which we had not agreed upon with the company. We feel that we should be allowed to consult whether to proceed with it or not.

THE DEPUTY SPEAKER: Let us hear from the shadow minister.

5.36

MR MUHAMMAD MUWANGA KIVUMBI (NUP, Butambala County, Butambala):

Mr Speaker, the minister brought here a motion and you referred the matter to the joint committee of Committee on Finance, Planning and Economic Development and Committee on National economy to process in a record time.

Good enough, the minister appeared before the committee yesterday to justify the borrowing. Today, the committee has completely finished its report and it has profound findings on this loan - I am aware because I have been in the committee.

This motion, moved by the minister, pre-empted what this committee discovered. *(Applause)* That pre-empting will cause impunity because if the report of the committee is read to the House – and you discover what happened – there are investigations that must ensue and there are heads that must roll.

The cover-up of this level, where Uganda was to commit Shs 2 trillion borrowing to a shadowy deal, will be unprecedented. So, I indulge you, Mr Speaker, to allow the committee to make a presentation of this whole report because it has far-reaching implications on how some fellows manage our economy.

How they go about - Uganda has very many bad loans and this is one of them. Therefore, this amendment by the minister should be opposed by this Parliament so that the report is read.

After hearing from the report – I sympathise with the minister and he knows. I have even spoken to him about this matter. We can find a way to house it, but let us hear what was going

to happen to Uganda. A cover-up will not tell - and it will cause suspicion in the broader society.

THE DEPUTY SPEAKER: Hon. Kivumbi, the committee has a report. I am going to allow the committee to read its report. However, when the minister requests to amend his motion, I cannot stop him. Under rule 58, he is allowed. However, that does not stop the committee from presenting its report. After the minister has amended his motion, I will call the chairperson of the committee to present the report of the committee.

The minister has also told you that the company – despite the challenges which you discovered, he also has his own issues – has also changed the terms and brought in new conditions.

Honourable colleagues, we cannot make decisions based on suspicion. Give him a chance. Let us stop doubting each other. He is not looking for money for his family. Let him come here. The report of the committee is ready and the information will come out – if there are any issues.

MR MUWANGA-KIVUMBI: As long as you will allow the report to be presented in its entirety – for purposes of information and for the public to know what had happened – we can relax and give the minister a go-ahead. However, there is a limitation when a matter is not conversed – *(Interruption)*

MR SSEMUJJU: Mr Speaker, rule 155 gives the process of handling motions like this one. If by an amendment this motion almost changes completely, isn't it the right procedure to have it referred back to the committee?

Someone who came to borrow Shs 2 trillion now says he wants to borrow Shs 100 trillion. He is now saying the documents laid here were fake – he has discovered – but they were the best for referring this particular loan request to the committee.

THE DEPUTY SPEAKER: Thank you. It is difficult for me to rule on that because the

motion is not yet carried. Once the motion is carried, I will be able to rule.

MR NANDALA-MAFABI: Thank you, Mr Speaker. I would like to thank you for your guidance. The finance minister, under this Constitution, is the one allowed to go and negotiate for money.

Again, under this law, one is free to withdraw a motion. However, of interests - even our rules allow committees to investigate matters; we are not limited.

From what we are hearing, it looks like there is more. People may have been stealing, but today, they have been got *-(Interjections)-* okay, maybe they have been doing things – let me change the language – but, today, they have been got. *(Laughter)*

This thing has to do with the budget that we have passed. The moment you are talking of withdrawing money *-(Interruption)*

MR MUWANGA KIVUMBI: This loan has got to do with the supplementary that we passed and the budget for this financial year, not the one we have just passed for next year.

THE DEPUTY SPEAKER: Do you see where my worry is? Members want the report, but all we are doing is delaying the report. So, we better move so that we can have the report quickly and then start getting the information which we need.

I put the question that the minister's motion be adopted.

(Question put and agreed to.)

THE DEPUTY SPEAKER: The minister will present an amended motion, but we shall have a full report of the committee.

MR MUSASIZI: Mr Speaker, I beg to move under Rule 155 of the Rules of Procedure that Parliament authorises the Government to utilise part of Uganda's IMF SDR quarter allocation (equivalent to \$250 million) and to

borrow up to Special Drawing Rights (SDR) 90 million (approximately \$125 million) from the International Monetary Fund to finance the Government of Uganda budget for Financial Year 2022/2023.

THE DEPUTY SPEAKER: Thank you. Committee chairperson? *(Mr Nandala-Mafabi rose_)* Hon. Nandala, do you have an issue before the committee chairperson comes in? Is the motion seconded? How do you want the report to be read? You said that you want a report – and you do not have any other motion seconded. *(Members rose_)*

The motion is seconded by Hon. Nakadama, Hon. Bahati, Hon. Rwemulikya, and Hon. Silas; thank you. The committee will present its findings. What you need is information; whether it applies or not. Someone has said, "I was borrowing this money and I found it problematic" and you are saying, "No, you must remain with it so that I first deny you." Let us get all the information as captured, pick out the observations that Hon. Kivumbi talked about and move.

MR NANDALA-MAFABI: Article 159 of the Constitution of Uganda says, for Government to borrow, it must be with the authority of Parliament. The minister has now changed according to the withdraw –

Article 159(3)(a) of the Constitution further states:

"(a) the terms and conditions of the loan shall be laid before Parliament and shall not come into operation unless they have been approved by resolution of Parliament; and

(b) that any monies received in respect of that loan shall be paid into the Consolidated Fund and form part of that fund or into some other public fund which is existing or is created for the purpose of the loan.

The reason I am raising this is that the initial terms the committee investigated were the ones which represented - The minister has come and said they are going for Special Drawing

Rights; one SDR is equivalent to \$ 1.3 from the International Monetary Fund. So, what terms of the SDR do we want to change? This is because we are not going to start discussing until we have the terms and conditions and authorisation from the International Monetary Fund.

MR MUSASIZI: Mr Speaker, we presented the terms to the committee which it is ready to report to the House for debate.

THE DEPUTY SPEAKER: It is very simple; there were different lenders, according to this loan. The minister has dropped one lender and all their terms which were presented here. He does not need to bring any new terms. What he laid on the Table here is what has been processed; that is what the committee has worked on. However, he has said that he is no longer interested in doing business with one of the people he had proposed to do business with. It does not change much. Committee chairperson, present your report.

REPORT OF THE COMMITTEE ON
NATIONAL ECONOMY ON THE
PROPOSAL BY GOVERNMENT
TO UTILISE \$ 250 MILLION FROM
UGANDA'S IMF SDR QUOTA
ALLOCATION, BORROW UP TO SDR 90
MILLION (\$125 MILLION) FROM THE
IMF, AND UP TO EUR 500 MILLION
FROM AMAROG CAPITAL LTD (ACL),
SOVEREIGN INFRASTRUCTURE GROUP
(SOVINFRA) AND OTHER FINANCIAL
INSTITUTIONS TO FINANCE THE
GOVERNMENT OF UGANDA BUDGET
FOR THE FINANCIAL YEAR 2022/2023

5.49

THE CHAIRPERSON, COMMITTEE ON NATIONAL ECONOMY (Mr Bosco Ikojo): Thank you, Mr Speaker. I stand here as a chairperson of the Committee on National Economy to present a report on a committee of National Economy on the proposal by Government to utilise \$ 250 million from the Uganda International Monetary Fund Special Drawing Rights Quota Allocation, borrow up to

Special Drawing Rights 90 million equivalent to \$ 125 million from the International Development Association of the World Bank and borrow up to Euro 500 million from Amarog Capital Limited, Sovereign Infrastructure Group and other financial institutions to finance the Government of Uganda Budget for the Financial Year 2022/2023.

Honourable members, I will present the whole report because as a committee, we looked at all the terms and conditions of all the other lenders. Therefore, as a committee, we shall be guided by the Speaker on how to present this report.

THE DEPUTY SPEAKER: Present the report in its entirety; just focus on the findings.

MR IKOJO: I beg to lay the committee report, minutes of the committee and all the other accompanying documents, including the due diligence reports that we sought from the Ministry of Finance, Planning and Economic Development from the Finance Intelligence Authority on the capacity of the other lenders.

I want to give an opportunity to my deputy chairperson to present this report. As a committee, we still have more work and we believe that before the close of the day, we will be able to present the other report. Therefore, I seek your indulgence that you allow my deputy chairperson to present the report, as I go and continue with committee business – *(Interruption)*

MR KIRUMIRA: Thank you, Mr Speaker. I have an issue and I seek your guidance. This particular report that the chairperson is presenting relates to Members signing the report. Now that we have an amendment made by the minister, I am seeking your guidance on whether we are proceeding well for the chairperson to present a report that has already been changed. The members of the committee signed that report premised on the fact that there was a rejection of the Amarog loan. I am not sure if the chairperson is reporting based on the new amendment or the old one. Thank you.

THE DEPUTY SPEAKER: The original motion was from the IMF - \$250 million and \$125 million; from Amarog, it was Euros 500 million. Each lender has its terms.

What is hurting some Members is that the minister has withdrawn - and I am not going to put a question and you defeat him - it seems to be disturbing some Members. I thought it would have made your work easy. If you recommended that you do not want the money and the minister has also withdrawn it, why are you in pain and want to go on record as having been rejected?

Secondly, you want me to rule on a report that has not even been presented. Allow the chairperson to present the report in full. In doing the work, the committee can even go beyond and get more information and more findings. So, everything the committee found out will go on the record of Parliament.

MR KIRUMIRA: Much obliged, Mr Speaker.

THE DEPUTY SPEAKER: Let the chairperson present the report. Members, I do not have a mattress to say that I am going to sleep here and today we are proroguing the House.

MR IKOJO: Thank you, Mr Speaker, for your wise guidance. Like I said, I will give this report to my deputy to present to the House.

5.54

THE DEPUTY CHAIRPERSON, COMMITTEE ON NATIONAL ECONOMY (Mr Robert Migadde): Thank you, Mr Speaker. I am here to present a report of the Committee on National Economy on the proposal by Government to utilise \$ 250 million from Uganda's IMF SDR Quota Allocation and to borrow up to SDR 90 million equivalent to \$ 125 million from the IMF and up to Euro 500 million from Amarog Capital Limited, Sovereign Infrastructure Group (SOVINFRA) and other financial institutions to finance the Government of Uganda budget for the Financial Year 2022/2023. This request came up on 23 May 2003 and was referred to the Committee on National Economy.

Background

Parliament approved a budget of Shs 48.1 trillion for expenditure during the Financial Year 2022/2023. The budget was to be financed through domestic revenue including AIA amounting to Shs 25.7 trillion, grants amounting to Shs 2.1 trillion and the rest of the budget deficit to be financed through external borrowing for both budget support and domestic refinancing.

I will go to the observations. The committee in its attempt to produce a report had a joint meeting with – *(Interruption)*

THE DEPUTY SPEAKER: Point of order.

MR SSEMUKU: Mr Speaker, you have asked the chairperson of the committee to present a report. Maybe he realised there was no report and said, "Let my deputy present it." The deputy is saying there was an attempt to do a report. Is he in order to come here and present an attempt instead of presenting a report? *(Laughter)*

THE DEPUTY SPEAKER: Hon. Migadde, can you clarify that?

MR MIGADDE: Mr Speaker, I am using very clear English. When we were having meetings, we were attempting to produce or make what would lead to a final report. After different attempts in different meetings, we have a final report.

THE DEPUTY SPEAKER: Can you read the report, Hon. Migadde? We do not have time.

MR MIGADDE: Mr Speaker, on the first request –

THE DEPUTY SPEAKER: I do not know why honourable colleagues are not kind to each other today. The words moving around - you are all honourable Members of Parliament, but you make a colleague feel uncomfortable. We all make mistakes.

MR MIGADDE: On the first request to utilise \$ 250 million from the IMF quota. The purpose was to help the economies build reserves, resilience and stability in the aftermath of the pandemic. IMF on 21 August 2021 made a general allocation to all its member countries to a tune of \$ 650 billion. Uganda received its quota equivalent to SDR 346 million (\$ 467 million). \$ 250 million of this quota will be utilised to finance budget activities for the Financial Year 2022/2023 and the balance of \$ 217 million to build our international reserves at the Bank of Uganda.

The second request was to borrow up to SDR 90 million (\$ 125 million) from the IMF. On 28 June 2021, IMF approved a three-year programme under Extended Credit Facility (ECF) for Uganda amounting to SDR 722 million (about \$ 1 billion) to support the post-COVID-19 recovery and the government's plan to increase household incomes and inclusive growth.

To date, the Government has accessed SDR 451.25 million (about \$ 600 million), leaving a balance of SDR 271 million. The Government intends to borrow up to SDR 90 million from the above balance under the programme to finance the budget for the Financial Year 2022/2023.

The third was to borrow up to Euro 500 million from Amarog Capital Ltd and Sovereign Infrastructure Group. This facility is intended to finance the supplementary expenditure of Shs 1.524 trillion. That was approved by Parliament and cover up for the projected revenue shortfalls of Shs 507 billion.

SOVINFRA and ACL referred to as lead lenders, were chosen following a request to 10 financial institutions to provide innovative ways and mechanisms to finance the budget, under which the two emerged as the best bidders. Table 4 highlights that.

SOVINFRA is a company organised and existing under the laws of the state of Delaware, USA, while ACL is a company organised and existing under the laws of Kenya and are jointly the lead arrangers.

Methodology

- i) The minister's brief to Parliament was one of the issues we looked at.
- ii) The Committee on Budget report with budget estimates for the Financial Year 2022/2023.
- iii) The draft financing agreement between the Government of the Republic of Uganda represented by the Ministry of Finance, Planning and Economic Development herein referred to as (borrower) and Sovereign Infrastructure Group and Amarog Capital Limited (lead arrangers).
- iv) Uganda's request for a three-year arrangement under the Extended Credit Facility and a press release by the IMF.
- v) Guidance note to fund staff on the treatment and use of SDR allocations by the International Monetary Fund.
- vi) Letter from NPA confirming no objection to the proposed borrowing dated 23 May 2023; and
- vii) List of financing options.

Proposed budget support

The Government is proposing to use a portion of the SDR quota amount equivalent to \$ 250 million to finance budget activities. In addition, the Government needs to borrow \$ 125 million from IMF-Extended Credit Facility and € 500 million from Amarog.

Terms and conditions

As far as the first loan of \$ 250 million is concerned, the grace period is zero. Interest rate is the SDR rate, which is the higher of -

- (i) the combined market interest rate or
- (ii) 0.050 per cent. As at May 2022, the combined market interest rate was 3.79 per cent.

Maturity period: There is no specific date applicable. Condition: Approval of utilisation by Parliament and Cabinet. That is why we are here.

The committee observed that while utilisation of the SDR quota for fiscal purposes will not necessitate the Government to repay the principal amount, it attracts an interest, which can only stop when the Government restores its SDR holdings by an equivalent amount into foreign currency reserve assets at the Bank of Uganda.

The second loan, which is SDR 90 million; the maturity period is 10 years; the grace period is five years and six months, interest rate is zero and the commitment fee is zero.

This IMF loan is to be provided from the extended facility whose purpose is to support countries' economic programmes aimed at moving towards a stable and sustainable macroeconomic position consistent with strong and durable poverty reduction and growth.

The financing under the ECF carries an interest rate of 0 as I earlier noted. This implies that the Government will not incur interest payment in regard to this alone. However, it should be noted that under this, countries agreed to implement a set of policies that will help them make progress towards a stable and sustainable macroeconomic position over the medium-term.

These commitments including specific conditions are described in this country's letter of intent.

Conditions

Uganda requested the fund and the fund is for financial support through a new three-year arrangement under the extended facility in 2021 to 2024 in an amount of \$ 722 million. The fund's support was to be instrumental in the steadfast implementation of the economic reform programme by providing the balance of payments and budget assistance leveraging donor resources and enhancing the efficacy.

This assistance was intended to cater for Uganda's Economic Reform Programme to help support Uganda's economy amidst of the COVID-19 pandemic and put in place conditions for a sustainable and robust recovery in the medium term.

The conditions for accessing this support are best in the memorandum of economic and financial policies and defined in the attached technical Memorandum of Understanding.

Amarog Capital Limited and Sovereign Infrastructure Group Facility

- The loan amount proposed - £500 million;
- Maturity period - 10 years;
- Gross Period - Four years;
- Margin - 3.05 per cent;
- Interest rate – Six months Euribor plus a margin of 3.05 per cent, which is 6.84 per cent based on the six months Euribor of 3.78 per cent as of 23rd.

The conditions for this specific request;

1. Legal advice or clearance of the agreement by the Attorney-General;
2. Approval by way of resolution of the facility by the Parliament;
3. Certificate signed by an authorised signatory of the borrowing entity;
4. A certificate issued on the official letterhead of the borrower and signed by the Minister of Finance, Planning and Economic Development. Borrowing of the facility would not breach any restriction on sovereign borrowing powers.
5. A legal opinion from the Attorney-General in accordance with the laws of Uganda;
6. This agreement, duly executed by the parties to it;

7. Evidence that the fees and costs due from the borrower pursuant to the finance agreement have been paid or shall be paid prior to the first utilisation date.

The condition on the tax waiver contravenes Section 83 of the Income Tax Act and contradicts the domestic resource mobilisation strategy. Section 83 of the Income Tax Act, Cap. 340 imposes a tax on a non-resident person who derives any dividend, interest, royalty, natural resource, payment of management charge from sources within Uganda.

The committee observed that among other conditions, precedent is a tax waiver on the interest and fees paid by the borrower. The budgetary support facility is a commercial loan agreement and non-concession where the parties are expected to make profit.

The committee in that regard recommends that the Government should always negotiate for the tax regime to apply to non-concessional loans since they are largely commercial so that the citizenry can benefit from the gains in a commercial transaction.

Other provisions in the agreement

8. Repayment of the loan

Clause 4 of the financing agreement provides for repayment of a loan by the borrower into the master trust accounts account in a six monthly instalment.

Clause 4.4 provides for an avenue for changes to the calculation of the interest. If this clause for 4.4 applies, and the agent of the borrower so requires, the agent and the borrower shall enter into negotiations.

The committee observes that the above provision allows the parties based on the financing agreement to substitute the basis for determining the rate of interest. Changing the basis for determining the interest rate will affect the terms and conditions of the loan. This ultimately offends Article 159(2) and (3) of the Constitution which requires that the terms

and conditions of the loan shall not come into operation unless they have been approved by a resolution of Parliament.

Waiver of Sovereign Immunity:

Clause 17 of the Financing Agreement provides as follows:

The borrower unconditionally and irrevocably agrees that the execution, delivery and performance by them or this agreement constitute private and commercial acts. In furtherance of the foregoing, the borrower hereby irrevocably and unconditionally agrees that

- (a) Should any proceedings be brought against it, or its assets in any jurisdiction in connection with this agreement, or any of the transactions contemplated here, no claim of immunity from such proceedings will be claimed on behalf of itself or any of its assets.
- (b) It waives any right of immunity which it or any of its assets now has or may in future have in any jurisdiction in connection with any such proceedings.
- (c) It consents generally in respect of the enforcement of any judgment against it in any such proceedings in any jurisdiction to the giving of any 14 relief or the issue of any process in connection with such proceedings, including and making the enforcement or execution against or in respect of any of its assets whatsoever regardless of the use or intended to use the assets.

The committee is concerned with the number of loan agreements the Government is signing with different lenders indicating an increased waiver of immunity with regard to the assets and property within and outside Uganda. This means the Government of Uganda irrevocably and unconditionally agrees to waive immunity over Uganda, or its properties, to which it all may become entitled to at any time, whether under sovereign immunity or otherwise from any suit.

Whereas a number of critical assets have been excluded from the application of the clause, the committee notes that this is not sufficient, and therefore recommends that the Government should always negotiate and ensure that sovereign immunity is not waived.

Mr Speaker, the loan is commercial since its grant element is negative 17 per cent which is below the benchmark of 35 per cent for concessional loans under the Public Debt Management Framework 2018 and less than 10 per cent for semi-concessional loans.

Implementation modalities

Once approved, all the funds will be disbursed to the Consolidated Fund. The Minister of Finance, Planning and Economic Development will be responsible for ensuring that funds are properly utilised to finance the Financial Year 2022/2023 the Government of Uganda budget.

Maybe what we can highlight is the impact on debt sustainability. By the end of December 2022, total debt stood at Shs 80,774.8 billion. This debt stock constitutes 47.7 billion as external debt, while 33,000 billion is domestic debt. As a share of debt to GDP, nominal debt to GDP increased from 48.4 per cent in June 2022 to 49.6 per cent in December 2022, performing within the threshold of the charter for fiscal responsibility.

With the approval of the proposed borrowing, external data exposure would increase by \$915 million from \$16.68 billion as at the end of December 2022 to \$17.59 billion. Similarly, since the loans are to finance the budget for Financial Year 2022/23, once disbursed this year, the debt stock will be increased by \$915 million by the end of June 2023.

Mr Speaker, the other observation is breach of loan contract by Standard Chartered Bank – as for the earlier loan. The committee observed that in November 2022, Parliament approved a budget support loan amounting to Euro 455.03 million from the Standard Chartered Bank and other financial institutions to cover part of the planned budget support borrowing

from external resources. The loan had two components, namely; 182.7 million Euros and another 272.33 million Euros.

After disbursing 140.6 million Euros, Standard Chartered Bank could not disburse the remaining balance of the loan amount – Euros 273.03 million – and has since proposed different financing terms higher than what was negotiated and approved by Parliament, citing new developments in the market. The committee considers this irregular as there was a binding agreement between the two parties, which ought to have had repercussions for the breaches. The committee wonders how the bank could just freely walk away from its own agreement.

The committee recommends that sections of the agreement that provide for consequences to breach of contract be invoked to force the bank to adhere to the agreements and compensate the Government for wasted time and resources that were invested in the negotiations and agreement.

The committee further recommends that going forward, all Government borrowing agreements should contain punitive clauses for breach of contract to save the Government from future budget troubles.

Tight schedules for loan processing

Mr Speaker, I may not read that one because it is evident that the time was short. However, we have a simple recommendation.

The committee recommends that going forward, it should be afforded sufficient time to study the loan requests and report well-analysed reports to Parliament for effective decision-making.

The committee further recommends that to avoid hush expenditure by the Government towards the closure of the financial year, which may lead to ineffective service delivery, loan requests are presented early in the reference financial year to accord spending agencies ample planning time.

Implementation of Domestic Revenue Mobilisation Strategy

The committee noted that in a bid to enhance revenue mobilisation, the Government developed the Domestic Revenue Mobilisation Strategy (DRMS). The core objective of the strategy is to improve revenue collection and raise Uganda's tax to GDP ratio from 12.5 per cent to 16-18 per cent within the five financial years. Emphasis is given to strengthening administrative efforts so as to narrow the gap between the current and potential revenue performance.

The committee recommends that Uganda Revenue Authority should tap into the 55 per cent informal sector to widen the tax base in order to increase the ratio of tax revenue to GDP.

In addition, the committee recommends that the Government tames its expenditure appetite by putting in place practical measures to curb the current expenditure to ensure that additional revenue collections are used towards critical development projects.

Borrowing to pay debt; unpaid invoices of Treasury Operations The committee noted that in this budget support loan request, the Government has presented a list of outstanding unpaid invoices for Financial Year 2022/2023 as of 11 May 2023, amounting to 7,148.36 billion, part of which the loan is meant to redeem. Among these unpaid invoices is Vote 130: Treasury Operations, which has a total value of 5,000 billion in unpaid invoices. The committee was informed that part of this is over Shs 2 trillion in the form of advances from the Bank of Uganda to the Government. The committee deems this as borrowing to pay back another loan, which leads to high-interest costs to the Government.

The committee recommends that the Government sticks to borrowing to finance critical productive elements of the budget to avoid Ponzi scheme practices by the Government, which are eventually very expensive.

Inclusion of loans in the budget processes

The committee notes with concern that it has not been given sufficient - okay, that one was mentioned.

The capacity of Sovereign Infrastructure Group and Amarog

Both Amarog Capital Limited and Sovereign Infrastructure Group are relatively new companies, with limited demonstrated experience in structuring innovative funding options for national governments. Whereas the respective company directors appear to have extensive experience in structuring financial transactions, this was on account of their previous work experience. Several of the self-reported projects in the document provided for this due diligence were undertaken by companies where Sovereign Infrastructure Group's founders were previously employed. The other transactions provided as evidence of completed deals in Kenya appear to be mere proposals that are yet to be approved and, therefore, could not be independently verified in terms of status, amounts involved and the role played by Amarog Capital Limited and its partners.

Amarog Capital Limited and Sovereign Infrastructure Group did not provide audited books of accounts despite a request by the Minister of Finance, Planning and Economic Development for both companies to do so. Sovereign Infrastructure Group instead provided the proforma financial statements (cash/income projections) for Financial Year 2021/2024, which could not be relied on as these are just estimates. Whereas both entities' roles would essentially be limited to arranging the proposed transaction, which may not require a lot of financial resources, lack of clarity in their financial position is an issue of concern.

The due diligence has further established that whereas Sovereign Infrastructure Group is reported to be working in partnership with Gar Wood Securities, available information indicates that the service of Lerry Knox,

the Chief Executive Officer and co-founder of Sovereign Infrastructure Group were terminated by Gar Wood Securities on 19 December 2022, for allegedly engaging in unauthorised private securities transaction. You can see the attachment.

Conclusion

The committee recommends that the House rejects the proposal by the Government to borrow through Sovereign Infrastructure Group and Amarog Capital Limited, who are expected to raise Euros 500 million to finance the budget for the Financial Year 2022/2023, given the concerns raised by the Financial Intelligence Authority and committee findings.

The committee further recommends that the officials who sourced and presented this loan proposal be investigated for possible linkage with the mentioned lead arrangers. The committee notes that it is now one month to the end of the financial year, the expenditures that would have been financed by the resource mobilised by the said lead arrangers may not be realised, disbursed and utilised by 30 June 2023.

As such, the committee recommends that the Ministry of Finance, Planning and Economic Development prioritises the available resources for expenditure relating to the fourth quarter of the Financial Year 2022/2023 while sourcing another credible financier. *(Applause)*

Conclusion:

Government is seeking to borrow an equivalent of \$915 million to finance the budget deficit. With the proposed borrowing, debt will remain sustainable over the medium to long-term, specifically for that loan to the extent to which the debt annual analysis assumptions are realised.

Once approved in the budget for Financial Year 2022/2023, the borrowing, if actualised, will increase the financing of the budget by Shs 3.3 trillion. Consequently, debt service cost over the medium to long-term will also grow by \$900 million to cater for both the principal and associated loan costs.

The committee, therefore, recommends that subject to observations earlier and recommendations herein, this House:

1. Approves the request by Government to utilise part of Uganda's IMF-SDRS Quota application equivalent to \$250 million to fund the budget for the Financial Year 2022/2023.
2. Approves the request by Government to borrow \$90 million, approximately \$125 million from the International Monetary Fund to finance the budget for Financial Year 2022/2023.
3. Reject a request by Government to borrow up to €500 million from SOVINFRA and Amarog Capital Ltd and other financial institutions to finance the Government of Uganda Budget for the Financial Year 2022/2023.

Mr Speaker and honourable members, I beg to report. *(Applause)*

THE DEPUTY SPEAKER: Thank you. Chairperson, do we have a Minority Report or we do not?

MR MIGADDE: Mr Speaker, aware that we had very little time to process this, it is important to note that I received a notice from Hon. Kirumira that he has a Minority Report unless we have harmonised. If we have harmonised, well and good.

THE DEPUTY SPEAKER: Hon. Kirumira.

6.28

MR HASSAN KIRUMIRA (NUP, Katikamu County West, Luwero): Thank you, Mr Speaker. I thank my committee members for the great effort they have put in to ensure that this report is done within one day.

Mr Speaker, we had issues and I have been participating in all meetings of the committee about these loan applications, and we had so many differences. As a committee member plus some other colleagues, we opted to differ

from most of the positions of the report that was presented today.

Most importantly, Mr Speaker, the issue of Amarog was problematic for most of the members especially having fresh memories of the Standard Chartered Bank loan which was failed by the same ministry. We have been briefed that the Ministry of Finance, Planning and Economic Development has moved away from that commitment which was made by the finance minister with Standard Chartered Bank after our Government lost \$62 million in upfront fees.

I believe one of the reasons why the minister has withdrawn this particular Amarog Capital Ltd loan application is because it was also from a money lender in Kenya, with many unfair conditions. I want to appreciate the minister for loving our country and accepting to withdraw this bad loan, which was going to affect our country.

Mr Speaker, from a committee point of view, I will speak on behalf of the Majority and Minority Report. I will speak on behalf of –

THE DEPUTY SPEAKER: Hon. Kirumira, I am now confused. I have just been listening because I do not know what you are doing; whether you are presenting a Minority Report because we are not debating.

MR KIRUMIRA: Mr Speaker, I am trying to echo the views in my Minority Report that has been uploaded.

THE DEPUTY SPEAKER: No, a Minority Report is read because it is not your report. It is for Members who signed. So, you do not bring in your words. You are limited to what is written in the report. That is what the rules say. But where you agree, if you feel that after what the majority has presented is sufficient, you can say, “Okay, the main principles, we feel they are now sufficient, we continue with the rest.”

MR KIRUMIRA: Mr Speaker, it is true that as a member of the committee, we had a Minority Report and listening to the minister

withdrawing a loan of Amarog Capital Ltd and putting in context how much effort we have put in to make – because I was part and parcel of the committee and of that report, which was processed only that we had to differ on certain conditions.

I would concede on this, not presenting a Minority Report, but I want to put it on record that as a Committee on National Economy, we have a mandate to process loans. *(Mr Aogon rose_)*

THE DEPUTY SPEAKER: Hon. Silas, just wait a little. This is his first report and he was concluding. Honourable, please, conclude.

MR KIRUMIRA: Mr Speaker, we have a constitutional mandate to process loans and my biggest worry as to why the Minister of Finance, Planning and Economic Development is bombarding our committee with loan applications in the shortest period of time for us to process.

At the moment, my colleagues are in the Conference Hall processing another loan. They have finished. *(Laughter)* That loan is also due to be presented today.

Mr Speaker, planning is part and parcel of the Ministry of Finance, Planning and Economic Development and I would kindly pray that in future, they respect our committee and award us enough time to scrutinise and process these loans for the betterment of Uganda and the taxpayers. Thank you. *(Applause)*

THE DEPUTY SPEAKER: Thank you. Hon. Kirumira. I share your concern. I do not enjoy stampeding Members. Regarding the one you have talked about, I think you have been with it for about three weeks or a month. I know you have been with it for some time; the one of INVITE. It is not that it came just yesterday; you have been working on it. I do not enjoy it and I agree with you. The majority report touched on that.

We encourage the Ministry of Finance, Planning and Economic Development to bring

loan requests on time, so that we have enough time to scrutinise them. In the end, it will look like the Presiding Officer is putting you under pressure.

Honourable colleagues, when there is a situation, you look at a loan going to finance very critical elements of the budget and the financial year is about to end. As a Presiding Officer, your hands are tied, but you have to work backwards and ensure the situation improves. We are going to have an engagement with the finance ministry to see how we can do this better.

Honourable members, I open the Floor for debate. Hon. Ssasaga? No, let us debate. Why are you going into points of procedure and all that? Hon. Ssasaga, Hon. Basalirwa, Hon. Kwizera and Hon. Angura. However, members of the finance committee and national economy, you have already played your role. *(Laughter)*

Honourable member, let us allow debate and do this fast. I am going to give each one of you a chance, honourable colleagues. Two minutes each.

6.36

MR ISAIAS SSASAGA (FDC, Budadiri County East, Sironko): Thank you very much. My concern is the intent of the minister, having known that this is a bad loan. He brings it to Parliament, possibly to dupe the House and it passes it. All of a sudden, having realised that the committee has done due diligence and looked into it, and discovered anomalies that the loan will cause, he runs to withdraw it.

My concern is that the minister needs to be cautioned by this Parliament *—(Applause)—* because he cannot simply go free and yet he would have carried out more research to know whether the loan was good for the country or not. That is duping Parliament into passing bad loans for their own benefit. Thank you.

THE DEPUTY SPEAKER: Thank you. Honourable members, the minister is presenting government documents, so, you cannot target him alone. What if he was not here? That is

why when we have such documents, even if the specific minister is not here, any minister can present it because it is a government document that has gone through Cabinet.

So, we cannot target our colleague and say he should be cautioned. Please, honourable members, we would be setting a very bad precedent if we start harassing colleagues that way.

6.38

MR ASUMAN BASALIRWA (JEEMA, Bugiri Municipality, Bugiri): Thank you, Mr Speaker. We appreciate the circumstances in which we found ourselves. I just want to find out from the minister, it is about three weeks to the end of the financial year and sometimes, these processes where we want to put this money require various aspects. You have to get contractors, in case you are going to toe that line. How is the loan going to be consumed? Please throw some light on that aspect.

6.39

MR GEOFFREY OKELLO (DP, Nwoya East County, Nwoya): Thank you, Mr Speaker. I rise to seek clarification from the minister. This money was supposed to finance some activities of Government. He has now come to withdraw it; actually, I support the withdrawal. Can he clarify how this gap in Government activities is going to be filled?

6.40

MR EDDIE KWIZERA (NRM, Bukimbiri County, Kisoro): Mr Speaker, thank you very much. I thank the committee for what they have done. I invite Members to read page 22. It makes us more worried that we are borrowing to pay a debt and unpaid invoices of treasury operations. Unless this is passed, the Government will be at a standstill because you are talking about Shs 7 trillion of outstanding invoices.

This is a very big issue; we are at crossroads. The outstanding invoices do not cover payments expected up to 30th June, close of the financial year. So, Mr Speaker, people need to be very critical on this matter because the Government is at crossroads.

When you see the Government going to a moneylender to borrow, you have to be sympathetic. *(Laughter)* We may not be in agreement with the loans because they are rushing us, but what do you do when the Government comes to a standstill?

We need Shs 12 trillion today and tomorrow, but we do not have it. The government body responsible for looking for money is looking for it. However, we also appeal to the Government to look at the priorities. Suspend some projects; suspend the Standard Gauge Railway because we cannot afford it, suspend useless expenditures of making roads in DR Congo and suspend some of these army operations in DR Congo because we do not have the money.

So, do not spend as if you have a surplus budget; we have a deficit budget. Look at productive sectors like agriculture, tourism and manufacturing. However, if you do not plan and think very well, then we are in a crisis – *(Member timed out.)*

6.42

MR FREDRICK ANGURA (NRM, Tororo South County, Tororo): Thank you, Mr Speaker. I thank the committee for the report. However, honourable colleagues, I want you to know that it is not only Uganda, but countries across the world, especially those that are now being called “emerging economies” are facing fiscal deficits. In that case, non-concessional funding is starting to disappear. So, when our ministry in charge of borrowing looks around, it is our obligation to see how to move.

I am happy with the committee. It has raised very important issues here that we need to improve on our tax to GDP. As long as we do not improve on our tax to GDP, we shall continue looking for funding to support our budget.

Mr Speaker, widening our tax base is a solution that we must all start looking at to avoid borrowing which we may not be able to avoid in the near future. So, let us take into consideration what Hon. Kwizera has said that it may not be only us here.

For us who have come from meetings that were taking place out there, we were warned by these development partners that concessional funds are going to continue deteriorating. So, it is incumbent upon us to support our Government by widening the tax base, and improve on our GDP to tax and then tomorrow, we shall survive these situations. Thank you.

6.44

MR MOSES ALEPER (NRM, Chekwii County (Kadam), Nakapiripirit): Thank you, Mr Speaker. Mine is simply something I want to emphasise to this House and the country. The fiscal path we are treading on is very slippery because this amount of borrowing is leaving very minimal fiscal space for this country. I thought this should be brought to the attention of everyone so that next time we process these loans, we are mindful about that.

Two, throughout my life I have been dealing with figures and I am very passionate about it. When you give us the impression that our debt GDP ratio is 47 per cent, I stand here to object and this is very misleading.

Currently, our debt is at \$42.68 billion. When you translate using the current market rate, it is about Shs 157 trillion, and the debt, as you saw on the screen at 80. When you divide 80 by that, you come to 50.9, which is almost 51 per cent. So, the figure of 47 per cent is very misleading and it is not right to mislead us and this country.

I am talking very authoritatively based on the figures that are on the ground. This is how we mislead this country. *[Members rose]*

THE DEPUTY SPEAKER: Honourable colleagues, I am not allowing points of procedure during this debate.

MR MOSES ALEPER: When we were processing the supplementary budget, one of the conditions we were given was that there would be over performance in the domestic revenue collections. It meant that there would not be such a deficit. But the impression we are given now, when they say we are just funding

operations of this country, is very disturbing.
(*Member timed out.*)

6.07

MR ISAAC MODOI (NRM, Lutseshe County, Bududa): Thank you, Mr Speaker. I think all has been said-

THE DEPUTY SPEAKER: Hon. Modoi, what do you want to add if all has been said?
(*Laughter*)

MR MODOI: I want to thank the minister for coming out openly and withdrawing. That is what should be done. Mr Speaker, we must agree that we are dealing with an economy which is having inflation challenges and a pandemic which hurt us so much. However, I think we need to study how countries have come out of debt.

There is what is called *Reaganism*; when Reagan, the American President came into leadership in America, it was one country which was hit by loans. What did they do? I think the government stopped being a supplying Government; they gave the economy to the local people. In fact, he encouraged the informal sector to grow because that is when you can broaden the tax base.

Mr Speaker, we must be very careful about our expenditure. We must be very cautious - When we have such situations, we should be very careful where we put our money and our style of living. I think we should go for priority areas can stimulate our economy.

We need to do a lot. Our friends at Ministry of Finance, Planning and Economic Development should do research. Honourable minister, you placed this presentation to us and then you withdrew it. I would like to thank the honourable minister for withdrawing parts of the motion and I think there is a lot to be done.

Finally, there is a gap that has been created. I believe there was a reason we are going for this loan. In the absence of this loan, what is going to happen? We need to do a little bit of restructuring within our expenditure.

You are talking of borrowing, but we need to do a bit of restructuring within our expenditure priorities so they are realigned and at the same time, do - (*Member timed out.*)

THE DEPUTY CHAIRPERSON: Thank you. Honourable colleagues, those I have not picked to speak on this, I will pick them to speak on the next item. The most important component is that the minister has withdrawn the part we all were uncomfortable with. I now put the question - the mood I get is very simple. Minister, we are happy you have withdrawn the other part and Members, we have another item.

6.48

MR MUWANGA KIVUMBI (NUP, Butambala County, Butambala): Mr Speaker, first of all, there are important things to note here. The Government of Uganda pays competent technical staff in various agencies of Government to advice. They work 24 hours a day, 7 days a week and are on full pay. So, for them to put our ministers in this kind of predicament- where they go to Cabinet armed with information from our technical staff that we pay for, convinced that they are carrying an authentic loan arrangement and then come to Parliament -

Mr Speaker, it is high time some individuals in the Ministry of Finance, Planning and Economic Development who arrange these kinds of dubious deals be brought to book. (*Applause*). This is a recommendation of the committee where we must get an action taken report. Otherwise, enough is enough.

The second issue of concern is the question of supplementary budgeting -

THE DEPUTY SPEAKER: Honourable members, we still have three more items.

MR MUWANGA KIVUMBI: The second issue of concern is the error of bringing a supplementary budget where the Government is not sure of the funding. How do you bring a supplementary budget whose source of funding you are not sure of?

For the budget estimates, it is understandable because a budget is still an estimate, but for a supplementary, you ought to be sure.

Mr Speaker, this crisis is created by the Bank of Uganda. We have gone to the extent where the Government borrows to pay back a Government lender. Honourable members, the Bank of Uganda is a Government bank and so, it should be the last resort lender.

Invoices of Shs 7 trillion unpaid are not even covered in this loan portfolio you have processed. That means, going forward, as we process this loan, we are already creating a very despicable situation. We would like to ask this Government, what happened?

Therefore, Mr Speaker, cause an honest discussion about the state of our economy and how we are governing generally. This is a debate we must have as Parliament; it should be very honest about the structure of the Government and the decisions we take. Otherwise, going forward, we are going the Sri Lanka way. Soon, we are going to be declared literally bankrupt and no agency worthwhile other than Kampala Road will be willing to give us money.

THE DEPUTY SPEAKER: Thank you. Honourable colleagues, there are very critical recommendations in the report beyond the resolution of borrowing for which the committee members are saying we need to take action.

So, I will put the question on adopting the report so that it can be a record of Parliament. After, I will put the question on the resolutions. In the end, I will also ask the minister to clarify at once in the interest of time because we have critical issues which we want to be addressed today. I now put the question that the report of the committee is adopted.

(Question put and agreed to.)

THE DEPUTY SPEAKER: Honourable colleagues, I put the question on the motion for a resolution of Parliament to authorise

Government to utilise part of Uganda's International Monetary Fund (IMF), Special Drawing Rights Quarter Allocation equivalent to \$250 million and to borrow up to Special Drawing Rights (SDR) 90 million approximately \$125 million from International Monetary Fund to finance the Government of Uganda Budget for the Financial Year 2022/2023.

(Question put and agreed to.)

Report adopted.

THE DEPUTY SPEAKER: Honourable colleagues, both the majority and minority report agreed upon this issue. They only dropped Amarog; it even has a bad name "Amarog" (*Laughter*). Honourable minister, next time, be cautious of the names of companies you bring here otherwise, some bring you a bad omen.

Clerk, extract the resolutions for these borrowing agencies and ensure the minister receives them. Next item.

MOTION FOR A RESOLUTION OF PARLIAMENT TO BORROW UP TO SPECIAL DRAWING RIGHTS 68.6 MILLION (EQUIVALENT TO \$96 MILLION) AND RECEIVES A GRANT OF SPECIAL DRAWING RIGHTS (SDR) OF 74.3 MILLION (EQUIVALENT TO \$104 MILLION) FROM THE INTERNATIONAL DEVELOPMENT ASSOCIATION (IDA) TO FINANCE THE INVESTMENT FOR INDUSTRIAL TRANSFORMATION AND EMPLOYMENT (INVITE) PROJECT

THE DEPUTY SPEAKER: Honourable minister?

6.54

THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES) (Mr Henry Musasizi): Mr Speaker, I beg to move under Rule 155 of the Rules of Procedure that Parliament authorises the Government to borrow up to Special Drawing Rights 68.6

million (\$96 million) and receive a grant of Special Drawing Rights 74.3 million (an equivalent of \$104 million) from the World Bank to finance the Investment for Industrial Transformation and Employment Project (INVITE) Project.

THE DEPUTY SPEAKER: Thank you. Is the motion seconded? It is seconded by Hon. Mawanda, Hon. Afidra, Hon. Omara – and others.

Honourable minister, do you want to explain it a bit?

Honourable members, I pushed the committee to report now because by the time we return from recess, it would have expired. It is bad for our record, as Parliament, that a loan request came and we never processed it and the time proposed by the lender expired before we could make a decision – which is either accepting or rejecting the request. I do not want someone to go around accusing us of indecision. Let us make a decision so that it can be communicated and we are not used as an excuse.

I want to apologise to the committee for pushing them.

Honourable minister?

MR MUSASIZI: Thank you, Mr Speaker. The justification for our motion is that although Uganda has experienced a rebound in economic growth, the scale and degree of private investment has been low. This is coupled with challenges related to reducing poverty, achieving inclusive growth and wealth creation.

These challenges have been characterised into five development issues associated with low private sector growth and job creation in Uganda. The issues that the project intends to address include;

1. Unemployment, insufficient creation of quality and gainful employment opportunities in the economy, especially for the youth (where more than 75 per

cent of Uganda's population falls) with an estimated unemployment rate of 12 per cent in 2021.

2. Limited access to finance. Business growth and development is largely hinged on the availability of capital. However commercial bank lending at longer maturities is virtually non-existent due to reliance on short-term deposits as a source of funds.

Further, the COVID-19 pandemic has constrained financing to micro, small and medium enterprises because of long-term default periods. Most SMEs are also unable to borrow from commercial banks due to the higher risk attached to them. The project will provide long-term financing –

THE DEPUTY SPEAKER: Honourable minister, is that not all provided for in the report? You can make it short.

MR MUSASIZI: Mr Speaker, in summary, the number three component that the project seeks to address is regional inequality. Number four is poverty and component number five is that we intend to make some interventions to cover the gaps that exist in the refugee hosting communities.

Mr Speaker, the committee has considered the report and is ready to report back.

THE DEPUTY SPEAKER: Thank you. Committee chairperson? Honourable members, I know the report is being uploaded, but there is a copy which I shared. So, just be attentive and follow as they upload the report.

7.00

THE CHAIRPERSON, COMMITTEE ON NATIONAL ECONOMY (Mr John Bosco Ikojo):

Thank you, Mr Speaker. I stand here to present the report of the Committee on National Economy on the proposal for the Government to borrow up to Special Drawing Rights 68.6 million (equivalent to \$96 million) and receive a grant of Special Drawing Rights 74.3 million (equivalent to \$104 million) from

the International Development Association of the World Bank to finance the Investment for Industrial Transformation and Employment (INVITE) Project.

Mr Speaker on 5 April 2023, the Ministry of Finance, Planning and Economic Development presented a loan request for the Government to borrow up to about \$96 million and receive a grant and it was referred to the Committee on National Economy. The committee considered and scrutinised the request and now reports.

Mr Speaker, in the consideration and scrutiny of the loan, the Committee on National Economy held several meetings with the finance ministry, Private Sector Foundation, Bank of Uganda and other stakeholders.

The committee also reviewed a number of documents, including the loan request, the brief from the Ministry of Finance, Planning and Economic Development, the draft financing agreement and the project management implementation manual.

Background

Investment for Industrial Transformation and Employment (INVITE) is a collaborative programme between the Government of Uganda, the private sector and development partners (World Bank Group, SIDA, UK Government and Ministry of Foreign Affairs of the Netherlands).

INVITE aims to create private-sector manufacturing jobs and increase incomes across Uganda.

INVITE will achieve this by supporting manufacturing and exporting firms. INVITE will operate a range of products through the Private Sector Foundation Uganda and the Bank of Uganda INVITE Trust.

The programme offers a variety of products to support private sector manufacturing firms across the country.

Mr Speaker, Uganda is one of the countries that is still developing its export firms' capacities.

Exporting firms of manufactured and semi-manufactured products planning to increase exports to high-value markets or identify new high-value markets will receive this grant.

Accompanied with the loan is a grant for Investment in Refugee and Host District Supply Chain and this will lead investors to manufacture or export manufactured and semi-manufactured supply chains that will be supported by this grant so that the beneficial refugees and host communities will definitely be improved.

iii) Partial credit guarantee for the business loans. The product will support businesses by taking on some of the risks in their loans. This will allow businesses to access more favourable loan terms. Mr Speaker, in Uganda, most entrepreneurs are grappling with short-term loans. This loan will offer patient capital for most of our entrepreneurs and the private sector will be in a position to grow.

iv) Long-term flexibility of this loan in Uganda Shillings.

The product will provide long-tenure loans to both private businesses and public organisations. This loan will be targeted to support long-term improvement in businesses or projects that will increase efficiency.

v) Cost-sharing of the loan extension. This product supports firms, which restructured a loan under the Bank of Uganda COVID-19 relief scheme. The cost of that structuring will be shared by the Invite Trust.

vi) Loan interest discount. This product supports microfinance institutions by providing a line of credit. Those institutions will then be able to issue discounted loans to businesses.

vii) Accelerated invoice payments. This product will allow businesses to sell their invoices from large buyers to the Invite Trust at a small discount and in turn

be paid rapidly for goods and services delivered. The service will be cheaper than the equivalent commercial offerings.

Mr Speaker, I want straight away to skip to the terms of the loan. The International Development Association of the World Bank Group will provide credit facilities to enable the Government of Uganda to implement the investment for industrial transformation and employment projects under the terms indicated in Table 5.

The amount of the loan is \$96 million (SDR 68.6 million). The maturity period is 38 years, the grace period is six years; the service charge is 0.75 per cent per annum on the withdrawn credit balance and a commitment fee of 5 per cent per annum on the unwithdrawn financing balance.

We have always encouraged that Government should always concentrate on considering concessional loans. Therefore, this loan is highly concessional.

The conditionality of the loan

The nominal value of the loan is SDR 68.6 million (\$96 million.) The maturity period is 38 years, grace period is six years and the present value of the loan is \$46.18 million discounted at a rate of 5 per cent per annum. Therefore, the total debt service of the loan is \$111.66 million. The grant element is 71 per cent of the loan amount.

The present value of the loan as indicated above is lower than the nominal value of the loan contracted. This implies that the country's total future payment for this loan will be less than the proposed amount to be borrowed in the present terms. Total repayment of the loan will amount to \$111.6 million.

The IDA loan is highly concessional since the grant element, 71 per cent is larger than the threshold of 35 per cent recommended by IMF/World Bank.

The concessionality of this loan is further influenced by its long maturity period and the grant being extended through the relief-hosting window.

The budgetary implication:

The investment for industrial transformation and employment project has been earmarked for implementation under NDP III. The project is part of the public investment project with a Code 1706. The project is fully funded by the loan and grants from the World Bank with no Government of Uganda funding indicated anywhere.

The project is part of the proposed budget for the Ministry of Finance, Planning and Economic Development for the Financial Year 2023/2024 and the medium-term framework.

There is an allocation of Shs 202 billion under the external funding for the Financial Year 2023/2024 under project number 1706: Investment for industrial transformation and employment. Similarly, the current budget of 2022/2023 has an allocation of Shs 18.44 billion under the project under external funding.

Mr Speaker, I want to draw Members' attention to the observations and recommendations of the committee. The committee observed that:

1. The project design reflects short-term measures to address immediate liquidity challenges, that is, to keep the lights on. Limited firm closures or bankruptcies, particularly in cases where more productive firms may be at a greater risk of closure and present a widespread layoff in the manufacturing and exporting sector.
2. The project design is also anchored on supporting growth-oriented enterprises –

THE DEPUTY SPEAKER: Committee chairperson, can you go to observations and recommendations on page 21.

MR IKOJO: I am actually on page 22.

THE DEPUTY SPEAKER: You have moved ahead of me. Better.

MR IKOJO: (3) The project design contributes towards addressing financial bottlenecks that arose as a result of COVID-19 - that is the SMEs high reliance on bank funding or commercial lending, Deterioration of credit conditions from banks and non-bank financial institutions arising from an overall curtailment in financial intermediation and avoidance of the liquidation as a tool of debt collection by other firms.

The committee recommends that the Bank of Uganda should ensure that the lines of credit are applied only to those Tier 3 and 4 institutions, which have been assessed and are deemed qualified according to the set of key indicators, including a measure of the quality of the loan portfolio, capital adequacy and governance and are compliant with the established prudential norms. The sizing of the lines of credit should be a moderate function fraction of the overall demand in the market segment, thus reducing the probability of poor disbursement and the need for large cancellations.

The committee recommends that the Ministry of Finance, Planning and Economic Development, Bank of Uganda and the Private Sector Foundation should ensure that the above loan effectiveness conditions are timely fulfilled in order to trigger the timely effectiveness and disbursement of the credit for the project objectives to be met as planned.

The committee also recommends the following;

- That Bank of Uganda should ensure that a situation whereby well-performing PFIS are punished (for charging a fee that is too high) and underperforming banks are subsidised (by charging a fee that is too low) is avoided.

Role of invite trust in the project institutional arrangement and its future sustainability

The committee recommends that the Government should consider establishing a

more sustainable and well-coordinated policy, legal and institutional framework for extending affordable development finance for the promotion, financing and development of the Micro, Small and Medium Enterprises (MSME) sector in Uganda in order to strengthen it and make it more vibrant and competitive.

On public debt portfolio analysis, the committee recommends the following;

- Given the existing global uncertainties (Lower Global Growth, Persistent high inflation in advanced economies, tight global financial conditions, slow growth in domestic revenue and climate change disruptions), the Ministry of Finance, Planning and Economic Development should prudently project and manage the funding mix as well as review its priorities to avoid escalation of debt beyond a sustainable level.
- The Ministry of Finance, Planning and Economic Development should fast-track implementation of strategies to enhance domestic revenue generation for the country or reduce or rationalise government expenditure.
- Acquisition of additional debt should be targeted towards those sectors that trigger export growth and contribute to domestic revenue mobilisation.

Mr Speaker, in conclusion, the committee therefore recommends that the request by Government to borrow up to Special Drawing Rights SDR 68.6 million (equivalent to \$ 96 million) and receive a Grant of Special Drawing Rights SDR 74.3 million (equivalent to \$ 104 million) from the International Development Association of the World Bank to finance the Investment for Industrial Transformation and Employment Project be approved subject to the recommendations herein. I beg to move.

THE DEPUTY SPEAKER: Thank you, committee chairperson. If we had started with this, it would have even been better. You can see here we are borrowing \$ 96 million, but they are giving us a grant of \$ 104 million.

I picked Hon. Kubeketerya and Hon. Afidra. No, there are people I had picked earlier on. I will give you a chance to speak, Hon. Aogon. You are my auditor and usually, I do not make resolutions without my auditor speaking. Hon. Kubeketerya, Hon. Afidra, Hon. Mawanda and Hon. Cecilia Ogwal. Then I will pick from this side.

7.19

MR JAMES KUBEKETERYA (NRM, Bunya County East, Mayuge): Thank you, Mr Speaker. I support the committee's recommendations. However, I would like to make an observation that as we get this loan, most of the industrial hubs should be empowered with resources regionally and equitably to ensure that the small-scale firms and factories take off.

I have discovered that some of these loans have an element of refugees. Honourable minister, how I wish we had independent loans or grants specifically for refugees. I remember we had very many schools in areas with refugees and areas that did have refugees were deprived of. Why can't we get clear grants specifically for refugees? If we combine these grants, it will create confusion.

We have the United Nations High Commissioner for Refugees that is in charge of refugees and it is doing a lot. We are providing for the refugees, but at the same time leaving our own people without any help.

Lastly, on the issue of businesses – *(Hon. Basalirwa rose_)*

THE DEPUTY SPEAKER: Motion?

MR KUBEKETERYA: Mr Speaker, save me from Hon. Asuman. *(Laughter)*

7.21

MR ASUMAN BASALIRWA (JEEMA, Bugiri Municipality, Bugiri): Mr Speaker, the report has been presented and there is no minority report from our side. In effect, we agree with both the text and context. I, therefore, move a motion that the debate on

this matter be closed and we adopt the report of the committee.

THE DEPUTY SPEAKER: Is the motion seconded? It is seconded by Hon. Angura, Hon. Ogwal, Hon. Sarah Opendi and the whole House. I now put the question that the debate closes.

(Question put and agreed to.)

THE DEPUTY SPEAKER: I now put the question on a motion for the resolution of Parliament to authorise the Government to borrow up a Special Drawing Rights SDR 68.6 million (equivalent \$ 96 million) and receive a grant of Special Drawing Rights SDR 74.3 million (equivalent to \$ 104 million) from the International Development Association to Finance the Investment for Industrial Transformation and Employment (INVITE) Project.

(Question put and agreed to.)

THE DEPUTY SPEAKER: Thank you, committee Chairperson and your team for the good job. You can see Members did not want debate on this issue. Honourable colleagues, you have done very important work. Please, now allow me to also do mine.

PROCLAMATION BY THE RT HON.
SPEAKER OF PARLIAMENT OF THE
REPUBLIC OF UGANDA ON THE
PROROGATION OF THE SECOND
SESSION OF THE 11TH PARLIAMENT

THE DEPUTY SPEAKER: “*WHEREAS Article 95(3) of the Constitution of the Republic of Uganda provides that the Speaker may, after consultation with the President, prorogue Parliament by proclamation;*

AWARE THAT the necessary consultation with His Excellency, the President, has been carried out and it has been agreed that Parliament be prorogued;

NOTING THAT, the Second Session of the 11th Parliament commenced on Friday, 7 June 2022;

NOW, THEREFORE, in exercise of the powers conferred on the Speaker by Article 95(3) of the Constitution of the Republic of Uganda, it is proclaimed that Parliament shall stand prorogued with effect from Thursday, 25 May 2023;

The pending business before the House and its committees is hereby saved. Given under my hand and seal at Parliament House in Kampala this 25 day of May 2023.

*Anita Annet Among
Speaker of Parliament of Uganda."*

Thank you.

*(The House rose at 7.24 p.m. and was
prorogued.)*