

IN THE HIGH COURT OF SOUTH AFRICA  
(GAUTENG DIVISION, JOHANNESBURG)

CASE NO: 32512/13

In the matter of:

**M&G MEDIA LIMITED**

Applicant for admission as *amicus curiae*

In re the matter of:

**THE RIGHT2KNOW CAMPAIGN**

First Applicant

**THE SOUTH AFRICAN HISTORY ARCHIVE TRUST**

Second Applicant

and

**THE MINISTER OF POLICE**

First Respondent

**THE NATIONAL DEPUTY INFORMATION  
OFFICER: SOUTH AFRICAN POLICE SERVICE**

Second Respondent

**THE MINISTER OF DEFENCE AND MILITARY  
VETERANS**

Third Respondent

---

**NOTICE OF MOTION**

---

**TAKE NOTICE THAT** M&G Media Limited intends to apply to this Honourable Court for an order in the following terms:

- 1 Admitting M&G Media Limited as an *amicus curiae* in the above matter.
- 2 Permitting M&G Media Limited to file written submissions and make oral submissions at the hearing of the above matter.

- 3 To the extent necessary, condoning M&G Media Limited's failure to comply with the time periods set out in Rule 16A of the Uniform Rules of Court.
- 4 Directing that the costs of this application be paid by any party opposing it.
- 5 Further and/or alternative relief.

**TAKE NOTICE FURTHER THAT** the accompanying affidavit of **CHRIS ROPER** will be used in support of this application.

**TAKE NOTICE FURTHER THAT** the accompanying confirmatory affidavit of **OKYEREBEA AMPOFO-ANTI** will be used in support of this application.

**TAKE NOTICE FURTHER THAT** M&G Media Limited has appointed the address of its attorneys of record mentioned below at which it will accept notice and service of all process in these proceedings.

**TAKE NOTICE FURTHER THAT** if you intend opposing this application you must, in terms of Rule 16A(7)(a) of the Uniform Rules of Court, file an answering affidavit within 5 days of the service of this application.

**TAKE NOTICE FURTHER THAT** if no such answering affidavit is filed, the application will, without further notice, be placed on the roll for hearing on a date fixed by the Registrar.

DATED at **JOHANNESBURG** on this 20<sup>th</sup> day of **FEBRUARY 2014**


**WEBBER WENTZEL**

Applicant's attorneys  
 10 Fricker Road, Illovo Boulevard  
 Johannesburg, 2196  
 PO Box 61771, Marshalltown  
 Johannesburg, 2107, South Africa  
 Tel: +27 11 530 5607  
 Fax: +27 11 530 6607  
 Email: [okyerebea.ampopo-anti@webberwentzel.com](mailto:okyerebea.ampopo-anti@webberwentzel.com)  
 Ref: Okyerebea Ampopo-Anti  
 2466111

TO:

The Registrar of the above  
 Honourable Court  
 Johannesburg

AND TO:

**CLIFFE DEKKER HOFMEYR INC**

Applicants' Attorneys  
 1 Protea Place  
 Sandown  
 Sandton, 2196  
 Tel: (011) 562 1162  
 Fax: (011) 562 1514  
 Ref: C Jesseman/01949175/01950909

For: CLIFFE DEKKER HOFMEYR INC  
 1 PROTEA PLACE, SANDOWN, SANDTON  
 ACCEPTED WITHOUT PREJUDICE AND  
 WITHOUT WAVING CLIENTS RIGHTS

Received copy hereof on this  
 21 day of February 2014  
*[Signature]* 11:15  
 for: Applicant's Attorneys

AND TO:

**THE STATE ATTORNEY**

Respondents' Attorney  
 10<sup>th</sup> Floor, North State Building  
 95 Market Street, Cnr Kruis Street  
 Johannesburg  
 Ref : Mr N Govender/5811/13/P8/kp  
 Tel No: (011) 330-7780

Email: NeGovender@justice.gov.za

Received copy hereof on this  
day of

---

for: Respondents' Attorney

IN THE HIGH COURT OF SOUTH AFRICA  
(GAUTENG DIVISION, JOHANNESBURG)

CASE NO: 32512/13

In the matter of:

**M&G MEDIA LIMITED**

Applicant for admission as amicus curiae

In re the matter of:

**THE RIGHT2KNOW CAMPAIGN**

First Applicant

**THE SOUTH AFRICAN HISTORY ARCHIVE TRUST**

Second Applicant

and

**THE MINISTER OF POLICE**

First Respondent

**THE NATIONAL DEPUTY INFORMATION  
OFFICER: SOUTH AFRICAN POLICE SERVICE**

Second Respondent

**THE MINISTER OF DEFENCE AND MILITARY  
VETERANS**

Third Respondent

---

**FOUNDING AFFIDAVIT**

---

I, the undersigned:

**CHRIS ROPER**

do hereby make oath and say :



- 1 I am an adult male and the editor-in-chief of the Mail & Guardian newspaper, published by the applicant M&G Media Limited ("M&G"). I am duly authorised by the applicant to represent it in these proceedings and to depose to this affidavit on its behalf.
- 2 The facts set out herein fall within my personal knowledge, unless otherwise indicated by the context, and are to the best of my belief true and correct.
- 3 When dealing with legal questions and the contents of the affidavits filed in the main application, I rely on the advice of M&G's legal representatives.

#### THE APPLICANT

- 4 M&G is the owner and publisher of the Mail & Guardian newspaper, a weekly national newspaper. This application is brought by M&G for admission as an *amicus curiae* in the above matter.
- 5 As a news provider, M&G seeks to ensure that its audience is as fully informed as possible on matters of public interest. It therefore has a duty to provide information to the public.

D VR

## THE PRESENT APPLICATION

- 6 This application arises out of the application launched by The Right2Know Campaign and the South African History Archive Trust ("the applicants") seeking to have the decision of the first and second respondents to refuse the applicants' request for information in terms of the Promotion of Access to Information Act 2 of 2000 ("PAIA") declared unlawful and unconstitutional.
- 7 The applicants also seek to have reviewed and set aside the first and second respondent's refusal of the applicants' request in terms of sections 11, 78 and 81 of PAIA and request a copy of the requested information within fifteen (15) days from date of the order. I refer to that application as "*the main application*".
- 8 M&G seeks to be admitted as an *amicus curiae* in respect of the main application in terms of Rule 16A of the Uniform Rules of Court ("the Rules"). The purpose of this affidavit is to set out the basis of the application in terms of Rules 16A(5) and (6) of the Rules.
- 9 In what follows, I deal with four main issues:
- 9.1 The interest of M&G in the main application;
- 9.2 The submissions which will be advanced by M&G if it is admitted as an *amicus curiae*;

9.3 The attitude of the parties in the main application to M&G's admission; and

9.4 The relief that ought to be granted to M&G in this application.

## THE INTEREST OF M&G IN THE MAIN APPLICATION

- 10 M&G is one of the leading newspapers in South Africa, and in the course of its work there have been numerous incidents over the years in which reporters have been advised that a particular location cannot be photographed or reported on because it is a national key point. Therefore the issues raised in, as well as the outcome of this matter, are of interest to M&G.
- 11 M&G is of the view that the main application raises novel questions which are crucial for the principle of legality which forms an integral part of the rule of law.
- 12 The issues raised in the main application are manifestly of profound public interest and are squarely of interest to members of the media such as M&G. That is so because in terms of section 10(2)(c) of the National Key Points Act ("**the Act**") it is an offence for any person to publish information about the security measures applicable at a national key point or to report on any incident that occurred there. The existence of this offence has the

D R

potential to stifle legitimate reportage about structures that are national key points.

- 13 Although it is an offence for any person to publish information about the security measures applicable at a national key point, a person has no way of knowing whether a particular place that he or she is interacting with is a national key point because the list of national key points has never been published. According to the Act as it stands, therefore, a person could be charged with breaching section 10(2)(c) of the Act for taking pictures of the security features of a national key point without even knowing that the particular place is a national key point. This is squarely a violation of the principle of legality.
- 14 The present case involves the refusal by the respondents to furnish the applicants with access to the records indicating the places or areas that have been declared as national key points or national key points complexes as well as the bank statements from 2010 to 2012 of the Special Account for the Safeguarding of National Key Points.
- 15 In its refusal of the request, the respondent relied on section 38(a) and (b)(i)(aa) of PAIA, stating that the country's national key points are such that if information regarding them was to be disclosed, it would cause prejudice to the national security of the Republic. Furthermore, that in most instances the mere mention of the national key point will disclose its location and as such the respondents can never know how the information sought regarding national key points will be used if it becomes public.

- 16 It is accordingly essential that that the respondents' decision be tested against the relevant legal and constitutional principles. Moreover, it is essential that the correct constitutional and legal principles in this regard be established. This is particularly the case because the principle of legality requires that the person charged with an offence knows of the offence allegedly committed.
- 17 In the circumstances, I submit that M&G – as one of the leading newspapers in South Africa, which is dedicated to providing information to the public and reporting on matters which are of public interest has an interest in the main application sufficient to qualify it as an *amicus curiae*.

**THE SUBMISSIONS WHICH WILL BE ADVANCED BY M&G IF IT IS  
ADMITTED AS AN *AMICUS CURIAE***

- 18 M&G seeks admission as an *amicus curiae* only for the purpose of advancing certain legal submissions and presenting brief oral argument at the hearing of this matter. M&G does not seek to adduce any evidence before the Court hearing the main application nor does M&G seek to challenge the constitutionality of the Act.
- 19 M&G will ensure that it does not repeat the arguments of the parties. Rather, M&G will offer the court a distinct perspective and assist the court by placing the dispute in the main application in the context of central tenets of the Constitution.



- 20 The issues upon which M&G wishes to advance written and oral submissions are the following:

***The principle of legality***

- 20.1 Our submissions will focus on the origin and nature of the principle of legality as well as its importance in our constitutional democracy. It will be contended that it is a fundamental principle of our criminal law that a person may only be convicted in terms of a law that is publicly-known, and non-retroactive. In addition an accused person must have a blameworthy state of mind necessary to be held responsible for that particular offence. For instance, negligence for culpable homicide or intention for murder.
- 20.2 The fact that the list of national key points is not publically available infringes these important principles. First, if there is no list of what constitutes a national key point then the law, as regards the places that constitute national key points as well as the offences that result from the disclosure of the security measures applicable thereto, is not publicly-known. Second, the lack of disclosure of the national key points also means that individuals could be held liable on the basis of an offence when they did not have a blameworthy state of mind. This is plainly at odds with the principle of legality.

JD VR

- 20.3 The principle of legality also requires that people be given clear and adequate notice of what the law expects of them. The respondent's citing of categories of national key points and not the actual areas or places which are national key points infringes this principle.
- 20.4 M&G will submit that the Act must be interpreted in a manner that promotes the spirit, purport and objects of the Bill of Rights and which is in line with the principle of legality and consequently the rule of law.
- 20.5 The principle of legality requires that the Act must be interpreted to mean that the list of places or areas that have been declared national key points should be made available and easily accessible so that people who might be infringing the provisions of the Act have some way of knowing that they are committing an offence.
- 20.6 Since the National Key Points Act does not envisage any kind of confidential court process, any trial conducted in terms of the Act would follow the general principle of a public hearing. It follows that in order to enforce the offence, it would be necessary to disclose to the public that the structure is a national key point, which would defeat the argument advanced by the Minister of Police that the list of national key points must be kept secret.



***The discretionary nature of the powers of the information officer of a public body when it refuses to release information under PAIA***

- 20.7 Section 38(b)(i)(aa) provides that the information officer of a public body may refuse a request for access to a record of the public body if its disclosure would be likely to prejudice or impair the security of a building, structure or system. The exercise of this power is discretionary in nature.
- 20.8 It is a factual (as opposed to a legal) enquiry whether the disclosure of the list of national key points will be *“likely to prejudice or impair the security of a building, structure or system, including, but not limited to, a computer or communication system”*. The respondents did not adduce any evidence to show that the harm contemplated will or might happen if the information sought is disclosed.
- 20.9 I submit that in exercising his or her discretion the information officer must weigh up any security risk with the flagrant breach of the principle of legality that would be occasioned by failing to disclose the list of national key points.
- 20.10 Since the preferred interpretation of the Act envisages that the list of national key points must be disclosed, merely disclosing the list cannot amount to a disclosure that would be likely to prejudice or impair the security of those national key points (and accordingly the State can place no reliance on section 38(b)(i)(aa) of PAIA). This interpretation is fortified by the fact that the government has

D R

on numerous occasions published information identifying certain places as national key points. It cannot be that the government would have done so knowing that publishing this information would be likely to prejudice or impair the security of those particular national key points. Thus, the blanket submission by the Minister that the disclosure of any particular place as a national key point would undermine the security of that place cannot be taken seriously.

- 20.11 In my submission the above construction is not unduly strained particularly because the National Key Points Act is silent on whether the list of key points should be disclosed (I accept that it would be a different matter entirely if there were an express prohibition in the Act precluding the list from being disclosed).
- 20.12 M&G's submissions will consider, in particular, how the respondents are required to exercise their discretion and what the effect of the exercise of the Ministerial discretion is in restricting activities including media reportage and how such exercise would affect the public in general.
- 20.13 The submissions will also consider how the respondents' discretionary exercise of its powers should be exercised in a constitutionally-compliant manner.

- 21 For this reason alone, I submit that M&G's submissions will assist this court in determining the main application and will be different from those of the parties to the main application.
- 22 In addition, the parties to the main application will inevitably focus on the specific circumstances of the present case and the reasonably narrow interests they wish to protect and assert. By contrast, M&G will make submissions as a matter of general principle and in the public interest, with an eye to how the jurisprudence in this area ought to be developed if the principle of legality is adequately to be protected in the future. For this reason too, I submit that M&G's submissions will assist the court hearing the main application and will be different from those of the parties to the main application.

#### THE ATTITUDES OF THE PARTIES TO THE MAIN APPLICATION

- 23 On 22 January 2014, M&G's attorneys, Webber Wentzel, wrote to the attorneys for the applicants and the first to third respondents seeking their consent to M&G being admitted as an *amicus curiae* in the main application.
- 23.1 Copies of the letters are annexed marked "**CR1**" and "**CR2**" to this affidavit. A confirmatory affidavit from M&G's attorney, Ms Okyerebea Ampofo-Anti, of Webber Wentzel, is filed together herewith.

④ R

- 23.2 In the letters addressed to the respondents, M&G set out its interest in the main application as well as the issues upon which it wished to advance written and oral submissions. The issues upon which M&G wished to advance submissions are set out in paragraphs 4 to 11 of the letters. I point out that those issues are in substance identical to the issues set out above in the present affidavit.
- 23.3 In the letters, Webber Wentzel requested that the parties give an indication of whether they would agree to our intervention by no later than Monday, 27 January 2014.
- 24 On 27 January 2014, Cliffe Dekker Hofmeyr, which acts for the applicants in the main application, sent a letter to M&G's attorneys indicating that the applicants consented to M&G being admitted as an *amicus curiae*. A copy of this letter is annexed marked "**CR3**" to this affidavit.
- 25 On 27 January 2014, Cliffe Dekker Hofmeyr, sent a further letter to M&G's attorneys indicating that the applicants' consent to M&G being admitted as *amicus curiae* is subject to M&G not raising any direct constitutional challenges to the validity of the National Key Points Act. A copy of this letter is attached as "**CR4**" to this affidavit.
- 26 No response was forthcoming from the State Attorney, which acts on behalf of the first to third respondents.

- 27 Accordingly, on 28 January 2014, Webber Wentzel sent a further letter to the State Attorney indicating that it had not received any response to its letter of 22 January 2014 and requesting an urgent response thereto. A copy of the letter of is attached as "CR5" to this affidavit.
- 28 On 29 January 2014, the State Attorney sent a letter to M&G's attorneys indicating that the respondents do not consent to M&G Media being admitted as an *amicus curiae*. A copy of this letter is annexed marked "CR6" to this affidavit.
- 29 No reasons were advanced by the respondents' attorneys for the respondents' refusal to agree to M&G's admission as an *amicus curiae*.

**THE RELIEF THAT OUGHT TO BE GRANTED TO M&G IN THE PRESENT APPLICATION**

- 30 In the light of the attitude of the parties set out above, there will be no opposition from the applicants to the main application to M&G being admitted as *amicus curiae* on the condition that it does not challenge the constitutionality of the National Key Points Act.
- 31 The respondents oppose the admission of M&G as *amicus curiae* and have not furnished any reasons for that opposition. I submit that the respondents' conduct in not providing a reason for their refusal to consent is problematic in that there is no way that M&G can know which of its proposed submissions the respondents object to and why. Therefore M&G

D R

cannot address any concerns that the respondents might have with this application.

- 32 In the circumstances, I submit that this Court should grant the relief sought in the Notice of Motion and admit M&G as an *amicus curiae* to the main application in terms of rule 16A(8) of the Rules of this Court. Indeed, I submit that, whatever the attitude of the parties to the main application, M&G has plainly demonstrated its interest in this matter and the importance and novelty of the submissions it will make and accordingly I submit that it has made out a proper case for its admission as an *amicus curiae* in this matter.

#### CONDONATION

- 33 There is only one remaining matter that falls to be dealt with. Rule 16A of the Rules of this Court sets out various time-periods for the admission of an *amicus curiae*.
- 34 Rule 16A(9) permits this Court to “*dispense with any of the requirements of this rule if it is in the interests of justice to do so.*”
- 35 To the extent that there has been any non-compliance with rule 16A, M&G requests this Court to dispense with the relevant requirements.
- 36 There was no Rule 16A notice filed when the application was launched and no such notice has been filed to date. M&G only found out about the application that was brought by the applicants on 22 November 2013.

D R

M&G thereafter instructed its attorneys, Webber Wentzel on 28 November 2013 to proceed with considering the prospects for an amicus intervention.

- 37 Webber Wentzel considered the matter and also instructed counsel. M&G's attorneys met with Counsel on 13 December 2013, being the first date that counsel was available, who was preparing to go on holiday soon thereafter. Thereafter M&G's legal team was not available to deal with the matter in the course of the December holidays and could only deal with the matter from mid-January 2014.
- 38 As the facts set out above make clear, M&G has not been dilatory in approaching this court for permission to be admitted as an *amicus curiae*.
- 39 As soon as it became aware of the application it approached its attorneys as expeditiously as possible. Unfortunately the progress of the matter was delayed by the intervening December holidays. After the state attorney responded and refused its consent for M&G to be admitted as an *amicus curiae*, this application was prepared as expeditiously as possible.
- 40 In view of the considerable importance of the present matter for the country as a whole, as well as the lack of any prejudice to the respondents, I submit that it is plainly in the interests of justice for condonation to be granted.

A handwritten signature in black ink, consisting of a stylized 'D' followed by a 'V' and a 'K'.

**CONCLUSION**

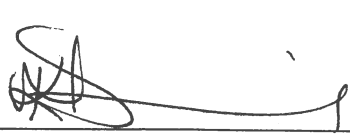
41 In the circumstances, I pray for the relief as set out in the Notice of Motion to which this affidavit is attached.




---

**CHRIS ROPER**

The Deponent has acknowledged that the Deponent knows and understands the contents of this affidavit, which was signed and sworn to or solemnly affirmed before me at Illovo on 20 February 2014, the regulations contained in Government Notice No. R1258 of 21 July 1972, as amended, and Government Notice No. R1648 of 19 August 1977, as amended, having been complied with.




---

Commissioner of oaths

Full names:

Business address:

Designation:

Capacity:

**Keshia Mariatta Dharmaratne**

Commissioner of Oaths

Ex Officio - Practising Attorney R.S.A.

First Floor, 17 Fricker Road

Illovo Boulevard

Illovo Johannesburg

"CR1"

## WEBBER WENTZEL

in alliance with > **Linklaters**

Christine Jesseman  
Cliffe Dekker Hofmeyr Inc.  
1 Protea Place  
Sandown

By email: [christine.jesseman@dlacdh.com](mailto:christine.jesseman@dlacdh.com)

10 Fricker Road, Illovo Boulevard  
Johannesburg, 2196

PO Box 61771, Marshalltown  
Johannesburg, 2107, South Africa

Docex 26 Johannesburg

T +27 11 530 5000  
F +27 11 530 5111

[www.webberwentzel.com](http://www.webberwentzel.com)

Your reference  
Case No 32512/13

Our reference  
O Ampofo-Anti / S Scott  
2466111

Date  
22 January 2014

Dear Madam

**The RIGHT2KNOW Campaign and Another v Minister of Police and Others, Case No: 32512/13**

1. We act on behalf of M&G Media (Pty) Ltd, the owner and publisher of the Mail & Guardian newspaper ("M&G" or "our client").
2. M&G wishes to be admitted as an *amicus curiae* in respect of the above matter. In accordance with Rule 16A(2) of the Uniform Rules of Court, our client hereby requests your client's consent to be permitted to intervene as an *amicus curiae* in the above matter.
3. We will firstly deal with M&G's interest in the matter and thereafter, set out the legal submissions that M&G wishes to make.
4. The issues raised in this matter are manifestly of profound public interest and are squarely of interest to members of the media such as our client. That is so because in terms of section 10(2)(c) of the National Key Points Act ("the Act") it is an offence for any person to publish information about the security measures applicable at a national key point. The existence of this offence has the potential to stifle legitimate reportage about structures that are national key points.
5. This offence was recently relied upon by the government in order to prohibit members of the media from taking photographs of President Jacob Zuma's home at Nkandla. Our

Letter On Amicus: Intervention To CDH 20140122

Senior Partners: DM Lancaster Partners: SM Adcock RB Africa NG Alp RL Appelbaum B Aronoff BA Baillie JM Beilew A Bennett HJ Bester  
DHL Booysen AR Bowley PG Bradshaw JL Buckland MS Burger-van der Walt PS Coelho KL Collier KM Colman KE Coster K Couzyn Z Dasoo  
JH Davies PM Daya JHB de Lange BEC Dickinson IIA Diemont DA Dingley NF Dlamini KZ Dlothi HJ du Preez CP du Toit M Ebrahim SK Edmundson  
JC Els AE Esterhuizen MJR Evans GA Fichardt JB Forman CP Gaul CI Gevys JP Gouws PD Grealy SN Gumede M Gwanzura VW Harrison  
JM Harvey MH Hathorn JS Henning WA Hiepner KR Hillis NA Hlatshwayo XNC Hlatshwayo S Hockey CM Hofheid PJA Holloway MGH Honiball  
SJ Hutton T Ismail AR James KA Jarvis ME Jarvis CM Jonker S Jooste E Jordaan LA Kahn M Kennedy A Keyser J Lamb PSG Leon DB le Roux  
L Marais T Masingsi S McCafferty MC McIntosh SJ Meltzer SM Methuila CS Meyer AJ Mills JA Milner D Milo NP Mngomezulu VS Moodale L Morphet  
VM Movshovich P.N. Mtshali B Ngwenya ZN Ntshona F.B. Nzimande GJP Olivier N Palge N Parbhoo AMT Paredini AS Parry S Patel GR Penfold  
SE Phajene HK Potgieter D Ramjetta NJA Robb DC Rueman JCL Russell JW Scholtz KE Shepherd GM Sibanda DM Simaan AJ Simpson J Simpson  
N Singh MP Spalding L Stein PS Stein LJ Svaline ER Swanepoel Z Swanepoel A Thakor CK Theodosiou A Toefy D Vallabh PZ Vanda JP van der Poel  
SE van der Meulen ED van der Vyver M van der Walt N van Dyk MM van Schaardenburgh JE Veeran D Venter HM Venter B Versfeld T.G Versfeld  
TA Versfeld DM Visagie JWL Westgate KL Williams RH Wilson M Yudaken Chief Operating Officer: SA Boyd

Webber Wentzel is associated with ALN

2

client has reported extensively on issues surrounding Nkandla and the supposed restrictions on reporting in relation to national key points.

6. M&G is one of the leading newspapers in South Africa, and in the course of its work there have been numerous incidents over the years in which reporters have been advised that a particular location cannot be photographed or reported on because it is a national key point. Therefore the issues raised in, as well as the outcome of this matter are of interest to our client.
7. The legal submissions our client intends to advance are centred around the principle of legality. The principle of legality is an incidence of the rule of law. It is a widely-recognised principle under the common law and one of the founding values of our Constitution. The general position in our law is that "[a] person should be able to know of the law, and be able to conform his or her conduct to the law." (Mokgoro J in *President of the Republic of South Africa and Another v Hugo* 1997 (4) SA 1 at para 102)
8. As noted above, in terms of the Act it is an offence for any person to publish information about the security measures applicable at a national key point. However, a person has no way of knowing whether a particular place that he or she is interacting with is a national key point because the list of national key points has never been published. According to the Act as it stands, therefore, a person could be charged with breaching section 10(2)(c) for taking pictures of the security features of a national key point without even knowing that the particular place is a national key point. This is squarely a violation of the principle of legality.
9. While the applicants have not argued that the Act is unconstitutional, it is a general principle of constitutional law that an interpretation of an Act which renders the Act constitutional must be preferred to one which renders that Act unconstitutional.
10. Our client will submit that a constitutionally compliant interpretation of the Act is one that is consistent with the principle of legality and which envisages that the list of national key points will be publicly disclosed so that everyone can know in advance if they are breaching the law with respect to a particular building.
11. Our client will submit that:
  - 11.1 Disclosing the list of national key points cannot amount to a disclosure that would be likely to prejudice or impair the security of those national key points and accordingly



that the Minister can place no reliance on section 38(b)(i)(aa) of the Promotion of Access to Information Act 2 of 2000 ("PAIA") as a ground of refusal.

- 11.2 The wording of section 38(b)(i)(aa) of PAIA suggests that the issue of legality is also relevant when the public body is exercising its discretionary powers when deciding whether to disclose documents that have been requested under PAIA. Therefore, even if the information officer were satisfied that there is a risk to the safety of a building (in this case a national key point), the officer may still decide to disclose the information in any case. Our client's submission will be that in exercising this discretion the information officer must weigh up the security risk with the flagrant breach of the principle of legality that would be occasioned by failing to disclose the list of national key points.
12. The above submissions are distinct from those made by the parties in this matter and will be of assistance to the court. Moreover, the M&G only intends to present legal argument and will not seek leave to place any further evidence before the court. We accordingly submit that intervention by M&G is appropriate and will not prejudice the parties.
13. We would be grateful if you could advise us by Monday, 27 January 2014, whether your client consents to the intervention of M&G as an *amicus curiae*.

Yours faithfully



**WEBBER WENTZEL**

**Okyerebea Ampofo-Anti / Stuart Scott**

Direct tel: +27 11 530 5607

Direct fax: +27 11 530 6607

Email: [okyerebea.ampofo-anti@webberwentzel.com](mailto:okyerebea.ampofo-anti@webberwentzel.com)



"CR2"

17

## WEBBER WENTZEL

In alliance with > **Linklaters**

**The State Attorney**  
10<sup>th</sup> Floor, North State Building  
95 Market Street, Corner Kruis Street  
Johannesburg

By email: [NeGovender@justice.gov.za](mailto:NeGovender@justice.gov.za)

10 Fricker Road, Illovo Boulevard  
Johannesburg, 2196

PO Box 61 771, Marshalltown  
Johannesburg, 2107, South Africa

Docex 26 Johannesburg

T +27 11 530 5000

F +27 11 530 5111

[www.webberwentzel.com](http://www.webberwentzel.com)

Your reference

5811/13P8/kp

Our reference

O Ampofo-Anti / S Scott  
2468111

Date

22 January 2014

Dear Madam

**The RIGHT2KNOW Campaign and Another v Minister of Police and Others, Case No: 32512/13**

1. We act on behalf of M&G Media (Pty) Ltd, the owner and publisher of the Mail & Guardian newspaper ("M&G" or "our client").
2. M&G wishes to be admitted as an *amicus curiae* in respect of the above matter. In accordance with Rule 16A(2) of the Uniform Rules of Court, our client hereby requests your client's consent to be permitted to intervene as an *amicus curiae* in the above matter.
3. We will firstly deal with M&G's interest in the matter and, thereafter set out the legal submissions that M&G wishes to make.
4. The issues raised in this matter are manifestly of profound public interest and are squarely of interest to members of the media such as our client. That is so because in terms of section 10(2)(c) of the National Key Points Act ("the Act") it is an offence for any person to publish information about the security measures applicable at a national key point. The existence of this offence has the potential to stifle legitimate reportage about structures that are national key points.
5. M&G is one of the leading newspapers in South Africa, and in the course of its work there have been numerous incidents over the years in which reporters have been advised that a

Letter On Amicus Intervention To State Attorney, 20130122

**Senior Partner:** DM Lancaster **Partners:** SM Adcock RB Africa NG Alp RL Appelbaum B Aronoff BA Baillie JM Beilieu A Bennett HJ Bester  
DH Booyesen AR Bowley PG Bradshaw JL Buckland MS Burger-van der Walt RS Coelho KL Collier KM Coiman KE Cosser K Couzyn Z Dasoo  
JH Davies PM Daya JHB de Lange BEC Dickinson MA Diemont DA Dingley NF Dlamini KZ Dlotshi HJ du Preez CP du Toit H Ebrahim SK Edmundson  
JC Els AE Esterhuizen MUR Evans GA Fichardt JB Forman CP Gaul CI Goolws JP Gouws PD Grealish SN Gumede MJ Gwanuzura VW Harrison  
JM Harvey MH Hathorn JS Henning WA Hieppner KR Hills JA Hlatshwayo XNC Hlatshwayo S Hockey CM Hofeld PM Holloway LGI Honiball  
SJ Hutton R Ismail AR James KA Jarvis ME Jarvis CM Jonker S Jooste E Jordaan LA Kahn M Kennedy A Keyser J Lamb PSG Leon DB le Roux  
L Lareis T Masingi S McCafferty MC McIntosh SI Metzger SM Methu'a CS Meyer AJ Mills JA Milner D Milo NP Mngomezulu VS Moolale L Morphet  
VI Movshovich I M Mtshali BP Ngoepe ZN Ntshona MB Nzimande GJP Olivier N Palge N Parbhoo AMT Pardini AS Parry S Patel GR Penfold  
SE Phajene FK Potgieter D Ramjattan NJA Robb DC Ruonan JC Russell JW Scholtz KE Shepherd GM Sibande DMJ Simaan AJ Simpson J Simpson  
N Singh MP Spalding L Steyn PS Stein LJ Swaine ER Swanepoel Z Swanepoel A Thakor CK Theodosiou A Toefy D Vallebb PZ Vanda JP van der Poel  
SE van der Meulen ED van der Vyver M van der Walt N van Dyk MM van Schaardenburgh JE Veeran D Venter HM Venter B Versfeld MG Versfeld  
TA Versfeld D11 Visagie JWL Westgate KL Williams RH Wilson M Yudaken **Chief Operating Officer:** SA Boyd

Webber Wentzel is associated with ALN

DP K

particular location cannot be photographed or reported on because it is a national key point. Therefore the issues raised in, as well as the outcome of this matter are of interest to our client.

6. The legal submissions our client intends to advance are centred around the principle of legality. The principle of legality is an incidence of the rule of law. It is a widely-recognised principle under the common law and one of the founding values of our Constitution. The general position in our law is that "[a] person should be able to know of the law, and be able to conform his or her conduct to the law." (Mokgoro J in *President of the Republic of South Africa and Another v Hugo* 1997 (4) SA 1 at para 102)
7. As noted above, in terms of the Act it is an offence for any person to publish information about the security measures applicable at a national key point. However, a person has no way of knowing whether a particular place that he or she is interacting with is a national key point because the list of national key points has never been published. According to the Act as it stands, therefore, a person could be charged with breaching section 10(2)(c) for taking pictures of the security features of a national key point without even knowing that the particular place is a national key point. This is squarely a violation of the principle of legality.
8. While the applicants have not argued that the Act is unconstitutional, it is a general principle of constitutional law that an interpretation of an Act which renders the Act constitutional must be preferred to one which renders that Act unconstitutional.
9. Our client will submit that a constitutionally compliant interpretation of the Act is one that is consistent with the principle of legality and which envisages that the list of national key points will be publicly disclosed so that everyone can know in advance if they are breaching the law with respect to a particular building.
10. Our client will submit that:
  - 10.1 Disclosing the list of national key points cannot amount to a disclosure that would be likely to prejudice or impair the security of those national key points and accordingly that the Minister can place no reliance on section 38(b)(i)(aa) of the Promotion of Access to Information Act 2 of 2000 ("PAIA") as a ground of refusal.
  - 10.2 The wording of section 38(b)(i)(aa) of PAIA suggests that the issue of legality is also relevant when the public body is exercising its discretionary powers when deciding

whether to disclose documents that have been requested under PAIA. Therefore even if the information officer were satisfied that there is a risk to the safety of a building (in this case a national key point) the officer may still decide to disclose the information in any case. Our client's submission will be that in exercising this discretion the information officer must weigh up the security risk with the flagrant breach of the principle of legality that would be occasioned by failing to disclose the list of national key points.

11. The above submissions are distinct from those made by the parties in this matter and will be of assistance to the court. Moreover, the M&G only intends to present legal argument and will not seek leave to place any further evidence before the court. We accordingly submit that intervention by M&G is appropriate and will not prejudice the parties.
12. We would be grateful if you could advise us by Monday, 27 January 2014, whether your client consents to the intervention of M&G as an *amicus curiae*.

Yours faithfully



**WEBBER WENTZEL**

**Okyerebea Ampofo-Anti / Stuart Scott**

Direct tel: +27 11 530 5607

Direct fax: +27 11 530 6607

Email: [okyerebea.ampofo-anti@webberwentzel.com](mailto:okyerebea.ampofo-anti@webberwentzel.com)





"CR3"

1 Protea Place Sandown 2196  
Private Bag X40 Benmore 2010  
South Africa  
Dx 42 Johannesburg

T +27 (0)11 562 1000  
F +27 (0)11 562 1111  
E [jhb@dlacdh.com](mailto:jhb@dlacdh.com)  
W [www.cliffedekkerhofmeyr.com](http://www.cliffedekkerhofmeyr.com)

Also at Cape Town

Attention: Ms Okyerebea Ampofo-Anti

Webber Wentzel  
10 Fricker Road  
Olovo Boulevard  
Johannesburg  
2196

**By email: [okyerebea.ampofo-anti@webberwentzel.com](mailto:okyerebea.ampofo-anti@webberwentzel.com)**

Our Reference	C Jesseman / T Erasmus
Account Number	01949175
Your Reference	O Ampofo-Anti / S Scott 2466111
Direct Line	(011) 562 1358
Direct Telefax	(011) 562 1669
Direct e-mail	<a href="mailto:Tricia.Erasmus@dlacdh.com">Tricia.Erasmus@dlacdh.com</a>
Date	27 January 2014

Dear Madam

**Amicus Application: The RIGHT2KNOW Campaign and Another v Minister of Police and Others, Case No: 32512/13**

- 1 We refer to the above matter along with your correspondence dated 22 January 2014.
- 2 We confirm that the applicants consent to the admission of M&G Media (Pty) Ltd as *amicus curiae* in the above matter.

Yours faithfully,

  
**TRICIA ERASMUS**  
**SENIOR ASSOCIATE: PRO BONO AND HUMAN RIGHTS**  
**CLIFFE DEKKER HOFMEYR INC**

**CHAIRMAN** CH Ewing **CHIEF EXECUTIVE OFFICER** B Williams **CHIEF OPERATING OFFICER** MF Whitaker **CHIEF FINANCIAL OFFICER** ES Burger

**DIRECTORS: JOHANNESBURG** A Abro N Altini CA Barclay R Beerman E Bester P Bhagattjee R Bonnet CJ Botes TE Brincker CWJ Charter M Chenia PJ Conradie AR Cumow CJ Daniel S de Vries ML du Preez L Erasmus CH Ewing BV Faber JJ Feris TS Fletcher L Franca TG Fuhrmann MZ Gatto S Gill SB Gore J Govender MJ Gwanzura\* AJ Hofmeyr Q Honey HS Jackson WH Jacobs WH Janse van Rensburg CM Jesseman JCA Jones TTM Kali J King LJ Kruger J Latsky AM le Grange FE Leppan\* BC Maasdorp Z Malinga B Meyer WJ Midgley M Mongoi R Moodley MG Mphahudi BP Ntsha BP O'Connor SJ Oosthuizen A Patel JS Pennington GH Pienaar V Pillay DB Pinnock AM Potgieter AW Pretorius PH Prinsloo AG Reid M Serfontein NTY Siwendu L Smith JL Stolp HR van der Merwe JJ van Dyk WPS van Wyk NJ von Ey JG Webber MF Whitaker JG Whittle KB Whyte DA Wilken B Williams JM Witte-Hewinson MP Yeates

**DIRECTORS: CAPE TOWN** RD Barendse TJ Brewis CM Britain-Renecke MA Bromley MR Collins A de Lange LF Egypt GT Ford S Franks DF Fyfer SAP Gle JW Green AJ Hannie AM Helberg PB Hesselting CI Hindley RC Horn JH Jacobs R Jaga A Kariem PJ Krusche IJ Lessing GC Lumb RE Marcus A Moolman NW Muller J Naser FT Newham G Orrle\* L Rhodie BT Rubinstein GJ Stansfield BPA Strauss DM Thompson CW Williams TJ Winstanley

**EXECUTIVE CONSULTANTS:** HS Coetzee, MB Jackson

**CONSULTANTS:** HC Dagut EJ Kingdon FF Kolbe CJ Wiggitt

**SENIOR ASSOCIATES:** JA Aukema G Barkhuizen-Barbosa MA Bobat B Brown L Brunton K Caddy KM Carew E Chang J Da Conceição J Darling EF Dempster J de Vos L Engelbrecht T Erasmus TV Erasmus L Horsley S Immelman T Jordaan KJ Keanly K Keylock Y Keltman JA Krige H Laing AG Lewis CJ Lewis HJ Louw BJ Majola G Masina N Mchunu HW Mennen SI Meyer T Moodley CP Muller DG Muller DJ Naidoo L Naidu CM O'Connor L Pillay KS Plots B Pollastrini NA Preston JR Ripley-Evans BJ Scribe AE Seaber M Sibanda P Singh-Dhulam LV Stansfield T Suiman AL Taylor FJ Terblanche RL Thomson F Valli-Gatto M van Zweek LD Wilson NI Zwane

**CLIFFE DEKKER HOFMEYR SERVICES PROPRIETARY LIMITED DIRECTORS:** ES Burger Z Omar NJ van der Walt R van Eeden MF Whitaker B Williams

\*British \*Dutch \*Zimbabwean \*Cape Town Managing Partner

Cliffe Dekker Hofmeyr Inc. Reg No 2008/018923/21

Cliffe Dekker Hofmeyr is a member of DLA Piper Group,  
an alliance of legal practices





"CR4"

1 Protea Place Sandown 2196  
Private Bag X40 Benmore 2010  
South Africa  
Dx 42 Johannesburg

T +27 (0)11 562 1000  
F +27 (0)11 562 1111  
E jhb@dlacdh.com  
W www.cliffedekkerhofmeyr.com

Also at Cape Town

Attention: Ms Okyerebea Ampofo-Anti

Webber Wentzel  
10 Fricker Road  
Illovo Boulevard  
Johannesburg  
2196

**By email: okyerebea.ampofo-  
anti@webberwentzel.com**

Our Reference	C Jesseman / T Erasmus
Account Number	01949175
Your Reference	O Ampofo-Anti / S Scott 2466111
Direct Line	(011) 562 1358
Direct Telefax	(011) 562 1669
Direct e-mail	Tricia.Erasmus@dlacdh.com
Date	27 January 2014

Dear Madam,

**Amicus Application: The RIGHT2KNOW Campaign and Another v Minister of Police and Others, Case No: 32512/13**

- 1 We refer to the above matter along with our correspondence dated 27 January 2014.
- 2 In clarification, please note our consent is of course subject to the M&G Media (Pty) Ltd not raising any constitutional challenges to the National Key Points Act.

Yours faithfully,

  
**TRICIA ERASMUS**  
**SENIOR ASSOCIATE: PRO BONO AND HUMAN RIGHTS**  
**CLIFFE DEKKER HOFMEYR INC**

**CHAIRMAN** CH Ewing **CHIEF EXECUTIVE OFFICER** B Williams **CHIEF OPERATING OFFICER** MF Whitaker **CHIEF FINANCIAL OFFICER** ES Burger

**DIRECTORS: JOHANNESBURG** A Abro N Altini CA Barclay R Beerman E Bester P Bhagettjee R Bonnet CJ Botes TE Brincker CWJ Charter M Chenie PJ Conradie AR Curnow CJ Daniel S de Vries ML du Preez L Erasmus CH Ewing BV Faber JJ Feris TS Fletcher L Franca TG Fuhrmann MZ Gatto S Gill SB Gore J Govender MJ Gwanzura AJ Hofmeyr Q Honey HS Jackson WH Jacobs WH Janse van Rensburg CM Jesseman JCA Jones TTM Kall J King LJ Kruger J Latsky AM le Grange FE Leppan BC Maasdorp Z Malinga B Meyer WJ Midgley M Mongoi R Moodley MG Mphahudi BP Ntsha BP O'Connor SJ Oosthuizen A Patel JS Pennington GH Plenaar V Pillay DB Pinnock AM Potgieter AW Pretorius PH Prinsloo AG Reid M Serfontein NT Siwendu L Smith JL Stolp HR van der Merwe JJ van Dyk WPS van Wyk NJ von Ey JG Webber MF Whitaker JG Whittle KB Whyte DA Wilken B Williams JM Witte-Hewinson MP Yeates

**DIRECTORS: CAPE TOWN** RD Barendse TJ Brewis CM Britain-Renecke MA Bromley MR Collins A de Lange LF Egypt GT Ford S Franks DF Fyfer SAP Glo JW Green AJ Hannie AM Helberg PB Hesselting Cl Hindley RC Horn JH Jacobs R Jaga A Kariem PJ Krusche IJ Lessing GC Lumb RE Marcus A Moolman NW Muller J Naser FT Newham G Orrie L Rhodie BT Rubinstein GJ Stansfield BPA Strauss DM Thompson CW Williams TJ Winstanley

**EXECUTIVE CONSULTANTS:** HS Coetzee, MB Jackson

**CONSULTANTS:** HC Dagut EJ Kingdon FF Kolbe CJ Wiggett

**SENIOR ASSOCIATES:** JA Aukema G Barkhuizen-Barbosa MA Bobat B Brown L Brunton K Caddy KM Carew E Chang J Da Conceição J Darling EF Dempster J de Vos J Engelbrecht T Erasmus TV Erasmus L Horsley S Immelman T Jordaan KJ Keanly K Keylock Y Kieftman JA Krige H Laing AG Lewis CJ Lewis HJ Louw BJ Majoie G Masina N Mchunu HW Mennen SI Meyer T Moodley CP Muller DG Muller DJ Naidoo L Naidu CM O'Connor L Pillay KS Plots B Pollastrini NA Preston JR Ripley-Evans BJ Scriba AE Seaber M Sibanda P Singh-Dhulam LV Stansfield T Suliman AL Taylor FJ Terblanche RL Thomson F Valli-Gatto M van Zweel LD Wilson NI Zwane

**CLIFFE DEKKER HOFMEYR SERVICES PROPRIETARY LIMITED DIRECTORS:** ES Burger Z Omar NJ van der Walt R van Eeden MF Whitaker B Williams

\*British \*Dutch \*Zimbabwean <sup>§</sup>Cape Town Managing Partner

Cliffe Dekker Hofmeyr Inc. Reg No 2008/018923/21

Cliffe Dekker Hofmeyr is a member of DLA Piper Group,  
an alliance of legal practices



## WEBBER WENTZEL

in alliance with > Linklaters



**The State Attorney**  
10<sup>th</sup> Floor, North State Building  
95 Market Street, Corner Kruis Street  
Johannesburg

**By email:** [NeGovender@justice.gov.za](mailto:NeGovender@justice.gov.za)

10 Fricker Road, Illovo Boulevard  
Johannesburg, 2196

PO Box 61771, Marshalltown  
Johannesburg, 2107, South Africa

Docex 26 Johannesburg

T +27 11 530 5000

F +27 11 530 5111

[www.webberwentzel.com](http://www.webberwentzel.com)

Your reference

5811/13P8/kp

Our reference

O Ampofo-Anti / S Scott  
2466111

Date

28 January 2014

Dear Madam

**The RIGHT2KNOW Campaign and Another v Minister of Police and Others, Case No: 32512/13**

1. We refer to our letter dated 22 January 2014 in which we requested your client's consent for our client, M&G Media (Pty) Ltd, to be permitted to intervene as an *amicus curiae* in the above matter.
2. We have not received any response to our letter. We would be grateful if you could advise us by close of business on Wednesday, 29 January 2014 whether your client consents to the intervention of our client as an *amicus curiae*.

Yours faithfully

**WEBBER WENTZEL**

**Okyerebea Ampofo-Anti / Stuart Scott**

Direct tel: +27 11 530 5607

Direct fax: +27 11 530 6607

Email: [okyerebea.ampofo-anti@webberwentzel.com](mailto:okyerebea.ampofo-anti@webberwentzel.com)

7225548\_1

**Senior Partner:** DM Lancaster **Partners:** SM Adcock RB Africa NG Alp RL Appelbaum B Aronoff BA Baillie JM Bellew A Bennett HJ Bester DHL Booysen AR Bowley PG Bradshaw JL Buckland MS Burger-van der Walt RS Coelho KL Collier KM Colman KE Coster K Couzyn Z Dasoo JH Davies PM Daya JHB de Lange BEC Dickinson MA Diemont DA Dingley NF Dlamini KZ Dlothi HJ du Preez CP du Toit M Ebrahim SK Edmundson JC Els AE Esterhuizen MJR Evans GA Fichardt JB Forman CP Gaul CI Gouws JP Gouws PD Grealy SN Gumede MJ Gwanzura VW Harrison JM Harvey MH Hathorn JS Henning WA Hlepner KR Hillis NA Hlatshwayo XNC Hlatshwayo S Hockey CM Holfeld PM Holloway MGH Honiball SJ Hutton R Ismail AR James KA Jarvis ME Jarvis CM Jonker S Jooste E Jordaan LA Kahn M Kennedy A Keyser J Lamb PSG Leon DB le Roux L Marais T Masingi S McCafferty MC McIntosh SI Meltzer SM Methula CS Meyer AJ Mills JA Milner D Milo NP Mngomezulu VS Moodaley L Morphet VM Movshovich MM Mtshali BP Ngoepe ZN Ntshona MB Nzimande GJP Olivier N Paige N Parbhoo AMT Pardini AS Parry S Patel GR Penfold SE Phajane HK Potgieter D Ramjetan NJA Robb DC Rudman JCL Russell JW Scholtz KE Shepherd GM Sibanda DMJ Simaan AJ Simpson J Simpson N Singh MP Spalding L Stein PS Stein LJ Swaine ER Swanepoel Z Swanepoel A Thakor CK Theodosiou A Toefy D Vallabh PZ Vanda JP van der Poel SE van der Meulen ED van der Vyver M van der Walt N van Dyk MM van Schaardenburgh JE Veeran D Venter HM Venter B Versfeld MG Versfeld TA Versfeld DM Visagie JWL Westgate KL Williams RH Wilson M Yudaken **Chief Operating Officer:** SA Boyd

Webber Wentzel is associated with ALN

**the doj & cd**

Department:  
Justice and Constitutional Development  
REPUBLIC OF SOUTH AFRICA

**"CR6"**

JGUP

**OFFICE OF THE STATE ATTORNEY: JOHANNESBURG**

Private Bag X9, JOHANNESBURG, 2000  
10<sup>TH</sup> Floor, North State Building, 95 Albertina Sisulu Street (formerly Market Street)  
(cnr Kruis), JOHANNESBURG, 2001

Docex 688, Johannesburg  
Tel : (011) 330 7780  
Fax : (011) 337 6200

My ref : 5811/13/PB/nzk  
Enq : Mr N. Govender  
E-mail : [NeGovender@justice.gov.za](mailto:NeGovender@justice.gov.za)

Your ref: O Ampofo-Anti / S Scott 2466111

Date: 29 January 2014

**Webber Wentzel**  
10 Fricker Road  
Illovo Boulevard  
JOHANNESBURG

Per Fax: (011) 530 5111

**RE: THE RIGHT TO KNOW CAMPAIGN & ANOTHER/ MINISTER OF POLICE**

The above matter refers.

We wish to advise that our clients unfortunately do not consent to your clients to be permitted to intervene as an *amicus curiae* in the above matter.

Yours faithfully

  
**MR N. GOVENDER**  
**FOR STATE ATTORNEY**  
**JOHANNESBURG**

**(Always quote my reference number)**

STATE ATTORNEY: K G Lekabe (B Proc, LLB, LLM) DEPUTY STATE ATTORNEYS: A S P Botha (BA, LLB, LLM); T Pillay (B Proc); T W Sekweli (B Iuris, LLB); Z N S O Nhlayisi (B Proc); V Dhulam (B Proc, LLM) SENIOR ASSISTANT STATE ATTORNEYS: B Du Preez (B. Iuris, B Proc); M C Engelsman (BA, LLB); A H Fouche (B Proc, LLB); D D Govender (B Proc); W R I Mabitsele (B Proc, LLB); S L Makenna (B Proc); N Gcwu (B Proc); S J Manitsana (B Proc); J Z S Mkata (B Proc)(LLB) (B Proc); L Flatela (B Proc, LLM); V Malherbe (B Iuris)(LLB); M E Smith (B Proc); F Phamba (B Iuris LLB,LLM) C R Khoza (B Proc); A H NELL (B Iuris, LLB); V Mananela (B Proc) ASSISTANT STATE ATTORNEYS: ; H T Higa (B Proc); N T Hongo (BA Economics and Accounting, LLB); D Lebenya (B Proc); H S Linda (BA, LLB); I T Malape (LLB); M H Maponya (B Proc); E C Matlou (B Iuris, LLB); H T Ngobeni (B Iuris, LLB); B P N Nkoana (LLB); M J Selhunya (LLB); C T Selhatole (B Proc, LLB); L E Kokotla (LLB); S Nyawo (B Iuris)(LLB); R R NemaKonde (LLB, LLM); D Mphephu (B Proc); K Thaver (LLB) B G Nkosi (LLB); M L Makabate(LLB)  
OFFICE MANAGER:  
T T Mthimunyane

IN THE HIGH COURT OF SOUTH AFRICA  
(GAUTENG DIVISION, JOHANNESBURG)

CASE NO: 32512/13

In the matter of:

**M&G MEDIA LIMITED**

Applicant for admission as amicus curiae

In re the matter of:

**THE RIGHT2KNOW CAMPAIGN**

First Applicant

**THE SOUTH AFRICAN HISTORY ARCHIVE TRUST**

Second Applicant

and

**THE MINISTER OF POLICE**

First Respondent

**THE NATIONAL DEPUTY INFORMATION  
OFFICER: SOUTH AFRICAN POLICE SERVICE**

Second Respondent

**THE MINISTER OF DEFENCE AND MILITARY  
VETERANS**

Third Respondent

---

**CONFIRMATORY AFFIDAVIT**

---

I, the undersigned:

**OKYEREBEA AMPOFO-ANTI**

do hereby make oath and say:

U  
OA

- 1 I am an adult female, practising as a senior associate of the law firm Webber Wentzel, having its principal place of business at 10 Fricker Road, Illovo Boulevard, Illovo, Johannesburg. I am the attorney for M&G Media Limited, the applicant seeking admission as an amicus curiae in this matter.
- 2 The facts contained herein are, save where the contrary is stated or appears from the context, within my personal knowledge and are, to the best of my knowledge and belief, true and correct.
- 3 I have read the founding affidavit of **CHRIS ROPER** and I confirm the contents thereof insofar as they relate to me and Webber Wentzel Attorneys.



---

**OKYEREBEA AMPOFO-ANTI**

The Deponent has acknowledged that the Deponent knows and understands the contents of this affidavit, which was signed and sworn to or solemnly affirmed before me at Illovo on 20 February 2014, the regulations contained in Government Notice No. R1258 of 21 July 1972, as amended, and Government Notice No. R1648 of 19 August 1977, as amended, having been complied with.





---

Commissioner of oaths

Full names:

Business address:

Designation:

Capacity:

CRAIG ARTHUR SCOTT  
COMMISSIONER OF OATHS  
PRACTISING ATTORNEY EX OFFICIO  
SUITE 6, FRICKER ROAD  
ILLOVO, SANDTON 2146  
TEL: 011 268-5916

