



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

NATIONAL ASSEMBLY
OFFICE OF THE DEPUTY CHIEF WHIP
OF THE OPPOSITION

PO Box 15, Cape Town, 8000,
Republic of South Africa
Tel: +27 (21) 403 3363
Fax: +27 (21) 403 2796
Email: mwaters@democratic-alliance.co.za

13 July 2017

Ms Penelope Tyawa
Acting Secretary to Parliament
Parliament of the Republic of South Africa

Dear Ms Tyawa,

APPEAL FOR RECORD REQUESTED IN TERMS OF THE PROMOTION OF ACCESS TO INFORMATION ACT

I am writing to you in respect of your letter, dated 12 July 2017, informing me that access to the record I requested in terms of the Promotion of Access to Information Act (Act No. 2 of 2000) on 20 July 2017 will be “deferred to a date after the Report is submitted to the National Assembly”.

In justifying your decision, you refer to section 24(1)(c) of PAIA which provides that “the information officer may defer giving access to the record for a reasonable period” in those instances where the record “has been prepared for submission to any legislature or a particular person but is yet to be submitted”.

It is my duty to inform you that section 24(1)(c) of PAIA does not apply to the record in question. As you are doubtless aware, the record emanated from a recommendation contained in “the Final Report of the Ad Hoc Committee on the SABC Board Inquiry into the Fitness of the SABC Board” (“the SABC Inquiry Report”), dated 24 February 2017. The SABC Inquiry Report was adopted by resolution of the National Assembly during a sitting on 7 March 2017. Section 41.1.2 of this report ordered that “Parliament’s Legal Services Unit, with the assistance of the Evidence Leader, should within 60 days from the adoption of this report by the National Assembly, identify the persons who misled the inquiry or provided false information or false testimony with the aim of criminal charges being laid”. The report was dutifully submitted to Parliament on 5 June 2017 via its representative, the Speaker of the National Assembly.

Accordingly, you are mistaken in your contention that the record “has been prepared for submission to any legislature or a particular person but is yet to be submitted”. Indeed, the Speaker of the National Assembly, Baleka Mbete, has been derelict in her duty and has failed to table the report via the Announcements, Tablings and Committee Reports (ATC). This does not mean, however, that the report has not been submitted to Parliament; the Speaker is the representative of Parliament and not an entity independent thereof. According to NA Rule 337 (e), which deals with the tabling of written instruments in the Assembly, “[t]he Speaker must table the following instruments without delay ... any other written instrument required to be tabled in terms of these rules”. Clearly the Speaker has no authority to postpone the tabling of the report to “the end of August or soon thereafter”.

It is with above in mind that I urge you to promptly provide us with the record I requested in terms of PAIA on 20 June 2017.

I look forward to your prompt feedback.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Mike Waters', with a stylized flourish at the end.

Mike Waters MP
Deputy Chief Whip of the Official Opposition
Parliament of RSA