MEMORANDUM TO THE PARLIAMENT OF GHANA

FROM: MARTIN A. B. K. AMIDU, EX- ATTORNEY-GENERAL, AND EX-MINISTER FOR THE INTERIOR

TO: THE RT. HON. SPEAKER OF THE PARLIAMENT OF GHANA

INFO: THE CHAIRMAN OF THE SELECT COMMITTEE ON DEFENCE AND INTERIOR OF PARLIAMENT

DATE: 29TH FEBRUARY 2016

SUBJECT: **INTERCEPTION OF POSTAL PACKETS AND TELECOMMUNICATION MESSAGES BILL, 2015**

INTRODUCTION

I read sparse comments on the Interception of Postal Packets and Telecommunication Messages Bill, 2015 on the electronic media on 19th February 2016. A former colleague who is also an NDC Member of Parliament was kind to make a copy of the Bill available to me on the evening of Tuesday, 23rd February 2016. My perusal of the Bill led me to the conclusion that it had the tendency to interfere with the fundamental human rights and freedoms guaranteed under the Constitution and needed a critical bi-partisan examination and analysis to ensure that it secured civil liberties recognized in free and democratic societies. I bring my long experience in Government and particularly in the Attorney-General's Office to a consideration of the Bill in the hope that it will assist Parliament, the Attorney-General and the Minister of the Interior to have a second and more critical look at the Bill to the end that when it is eventually enacted into law it will contribute to securing maximum civil liberty for the individual under the Constitution.

I examine and analyze the memorandum to or accompanying the Bill to see whether or not it complies with Article 106 (2) of the Constitution to warrant its introduction in Parliament and conclude that it does not. I proceed to examine and analyze selected provisions of the Bill and adduce reasons why they may be unconstitutional, inconsistent with existing law, or need to be harmonized with the existing law to achieve the objects of Article 106(2) of the Constitution in addressing defects in the existing law and providing remedies to those defects in the Bill. My conclusions on the selected provisions of the Bill have been aided by a content examination and analysis of a number of Ghanaian legislation dealing with interception of communications by law enforcement, and security and intelligence agencies. I have also referred to legislation and code of practice on interception of communications from a few Commonwealth countries such as Jamaica, Trinidad and Tobago, South Africa, Zimbabwe and the United Kingdom. I could not from the scheme of the Bill avoid commenting on the place of the National Security Co-

ordinator in the Bill. I did so by putting Ghana First above the personality of officers who may occupy the position now or in the future. I conclude my examination and analysis of the Bill with the conviction that the civil liberties of Ghanaians may require that the Bill be withdrawn to enable it meet the constitutional precondition for it to be properly introduced in Parliament and to give the Minister of the Interior and the Attorney-General more time to harmonize the Bill with existing legislation.

THE MEMORANDUM TO THE BILL

Article 106 of the 1992 Constitution lays out the mode of exercising legislative power. Article 106(2) enjoins that no bill other than a bill dealing with financial appropriation shall be introduced in Parliament unless two conditions are satisfied, namely:

(a) it is accompanied by an explanatory memorandum setting out in detail the policy and principles of the bill, the defects of the existing law, the remedies proposed to deal with those defects and the necessity for its introduction; and

(b) it has been published in the Gazette at least fourteen days before the date of its introduction in Parliament

The Bill entitled Interception of Postal Packets and Telecommunication Messages Bill, 2015 received Gazette notification on 29th July 2015 and was introduced in Parliament on 3rd February 2016 and consequently satisfies the requirement of Article 106(2)(b) supra. The Bill is, however, accompanied by a purported Memorandum which in my submission offends against the first requirement (a) that the bill shall be accompanied "by an explanatory memorandum setting out in detail the policy and principles of the bill, the defects of the existing law, the remedies proposed to deal with those defects and the necessity for its introduction".

The name of the Bill leaves no doubt that it is one designed to infringe upon and interfere with the fundamental human rights and freedoms of citizens guaranteed under Chapter 5 of the 1992 Constitution.

Article 18(2) of the Constitution provides that: "No person shall be subjected to interference with the privacy of his home, property, correspondence or communication except in accordance with law and as may be necessary in a free and democratic society for public safety or the economic well-being of the country, for the protection of health or morals, for the prevention of disorder or crime or for the protection of the rights or freedoms of others."

Article 21(1) guaranteed the general fundamental freedoms and right to (a) freedom of speech and expression, which shall include freedom of the press and other media; (b) freedom of thought, conscience and belief, which shall include academic freedom; (c) freedom to practice any religion and to manifest such practice; (d) freedom of assembly including freedom to take

part in procession and demonstration; (e) freedom of association, which shall include freedom to form or join trade unions or other association; (f) information, subject to such qualification and laws as are necessary in a democratic society; (g) freedom of movement which means the right to move freely in Ghana, the right to leave and enter Ghana and immunity from expulsion from Ghana. Article 21(3) guarantees that all citizens shall have the right and freedom to form or join political parties and to participate in political activities subject to such qualifications and laws as are necessary in a free and democratic society and are consistent with this Constitution.

Article 21 (4) provides for restrictions to be placed on the exercise of the guaranteed rights under the article under the authority of law to the extent that the law in question makes provision, inter alia, "© for the imposition of restrictions that are reasonably required in the interest of defence, public safety, public health or the running of essential services, on the movement or residence within Ghana of any person or persons generally, or any class of persons;"…."except in so far that provision or as the case may be, the thing done under the authority of that law is shown not to be reasonably justified in terms of the spirit of this Constitution".

The fundamental human rights and freedoms guaranteed under the Constitution are so expansive that Article 33(5) states as follows:

> "(5) The rights, duties, declarations and guarantees relating to the fundamental human right and freedom specifically mentioned in this Chapter shall not be regarded as excluding others not specifically mentioned which are considered to be inherent in a democracy and intended to secure the freedom and dignity of man".

The foregoing fundamental human rights and freedoms provisions of the Constitution shows that the Bill which is intended to intercept communications of any form will in a way interfere with the right to privacy and general freedoms under the Constitution. The Memorandum to the Bill however presents the Bill without explaining any policy or principles underpinning it that justifies the limitations sought to be placed on the Constitutional guaranteed freedoms and rights let alone to comply with the other requirements of Article 106(2) of the Constitution. The Memorandum to the Bill does not even deal with the existing laws on interception of communications which are spread in various laws such as the Narcotic Drug (Control Enforcement and Sanctions) Act, 1990 (PNDCL 236), Security and Intelligence Agencies Act, 1996 (Act 526), the Anti-Money Laundry Act, 2008 (Act 748), the Anti-Terrorism Act, 2008 (Act 762), the Economic and Organised Crime Office Act, 2010 (Act 804) and the Mutual Legal Assistance Act, 2010 (Act 807), as amended, to show the defects of the existing law and the necessity for introducing this Bill.

Prima facie the Bill has not met the condition precedent under Article 106 of the Constitution to be introduced in and to be deliberated upon by Parliament. This mandatory Constitutional injunction cannot with respect be ameliorated by any Standing Orders of Parliament. Admittedly,

Parliament might be very busy and may not have the resources and personnel to critically examine all bills before they are introduced in Parliament. But now that the defects of the memorandum to this particular Bill has been pointed out, Parliament may be doing the nation a good service if it required that the Bill be withdrawn and the proper memorandum with the explanation and details enjoined under the Constitution provided.

SELECTED PROVISIONS OF THE BILL

Purpose for interception

Section 2(a) of the Bill which permits an authorized person to intercept a postal packet, telephone message or other electronic or cyber communication message suffers from over breath and lack of proportionality as a restriction of the fundamental human rights of citizens. The words "protecting national security" are not defined anywhere in the bill.

Article 18(2) for instance of the Constitution which guarantees the right to privacy only excepts restrictions and limitations that are "in accordance with law and as may be necessary in a free and democratic society for *public safety or the economic well-being of the country, for the protection of health or morals, for the prevention of disorder or crime or for the protection of the rights or freedoms of others*." (Emphasis supplied). Article 21 which guarantees the general fundamental freedoms and rights is more expansive and excepts laws which make provisions inter alai for "© the imposition of restrictions that are reasonably required *in the interest of defence, public safety, public health or the running of essential services, on the movement or residence within Ghana of any person or persons generally, or any class of person;"…." except in so far that provision or as the case may be, the thing one under the authority of that law is shown not to be reasonably justified in terms of the spirit of this Constitution*." (Emphasis supplied).

It may not be for nothing that the whole of Chapters 5 and 6 dealing with the fundamental rights and freedoms of the individual and the directive principles of state policy respectively avoid the use of the chancellor's foot words like "in the interest of national security or for the purpose of national security or for the purpose of protecting national security." Furthermore as, the fruits of these interceptions may be used for the prosecution of crime, it is only reasonable in any democratic society that the Bill should define what constitutes the words "protecting national security". For example, Article 21(3) guarantees that:

> "(3) All citizens shall have the right and freedom to form or join political parties and to participate in political activities subject to such qualifications and laws as are necessary in a free and democratic society and are consistent with this Constitution."

What is the criteria for the ordinary citizen and indeed the Judge who is to grant the interception warrant to determine whether or not "protecting national security" includes communications by

opposing political parties that are perceived to threaten the governing regime's continued stay in Government within the multiparty democratic political process? Will the interception and interference with the communications of political opponents as happened in Uganda during their recent elections not pass the test of "for the purpose of protecting national security?"

Procedure for interception

Section 4 provides that where there is the need to intercept communication the National Security Co-ordinator or a public officer shall obtain a warrant for that purpose from a Justice of the High Court sitting in chambers.

The Security and Intelligence Services Act, 1996 (Act 526) provides clearly for who are authorized officers within the law enforcement and other security and intelligence services for the purpose of applications for warrants for conducting surveillance from a High Court Justice. Indeed the provision for obtaining a warrant to conduct surveillances by law enforcement and security and intelligence agencies under the Constitution are provided for in detail in sections 29, 30 and 31 of Act 526 and empowers them to intercept all forms of communications which includes postal packets. Section 27 of the Narcotic Drug (Control Enforcement and Sanctions) Act, 1990 (PNCL 236) also provides the procedure that allows the "Interception of Communication" under the Act – "(a) to intercept, detain and open a postal article in the course of transmission, (b) to intercept a message transmitted or received by telecommunication, or to intercept or listen to a conversation by a telecommunication". Sections 34 of the Anti-Terrorism Act, 2008 (Act 762) as amended also provides procedures for applying ex parte for "Intercepted Communication" by a senior police officer with the Attorney-General given responsibilities under the Act. Sections 43 to 51 of the Mutual Legal Assistance Act, 2010 (Act 807) also provided elaborate procedures for applying ex parte for "Interception and Preservation of Communications Data" with the Ministry of Justice designated as the Central Authority under the Act. Last but not the least, Section 25(5) of the Economic and Organised Crime Office Act, 2010 (Act 804) also provides for applying ex parte for the interception of communications in the discharge of functions under the Act. What then is the policy and principle for the Bill in the face of the existing law? What defects does the Bill seek to cure and what remedies are being introduced to cure them in the existing law as demanded by Article 106(2) of the Constitution?

The National Security Co-ordinator and his office are created and established under sections 18, 19 and 20 of the Security and Intelligence Agencies Act, 1996 (Act 526). His principal function as stated in section 19(a) of the Act is to "co-ordinate on a day-today basis the activities of the national, regional and district security councils and the activities of the Intelligence Agencies." He is also to consult Directors of the relevant Intelligence Agencies on manpower levels, and assist the relevant Intelligence Agency to gather defence intelligence. Act 526 did not establish the National Security Co-ordinator to administer law enforcement services or security and intelligence agencies. The Constitution has already provided for the operational control and

administration of the Ghana Police Service, the Ghana Armed Forces, and the Ghana Prisons Service which are the ordinary law enforcement and defence agencies. The National Security Co-ordinator has no business with the interception of communications by the Ghana Police Service and the Ghana Armed Forces in the discharge of their legitimate and respective duties that was why we distanced him from such functions in the enactment of Act 526. The Security and Intelligence Services Act, 1996 (Act 526) was prepared and submitted to Parliament by me under the guidance of one of the most experienced National Security Advisor's this country has ever produced. He was careful that the protocol guaranteed by the Constitution and the laws of Ghana within the law enforcement, and security and intelligence agencies were not breached and kept the National Security Co-ordinator in his proper place within the Act.

I have already referred to other Acts of Parliament passed by the Parliament which in various ways make provision for "interception of communications" which have not centralized applications in the National Security Co-ordinator or even mentioned his office. The Bill is silent on why the legislative scheme adopted by Parliament in those other similar legislation must give way to a centralization of power in the National Security Co-ordinator or his office over and above service and agency commanders. I shall return to this subject and the constitutionality of the National Security Co-ordinator as the person who must vet and approve applications from law enforcement, and security an intelligence agencies for submission for consideration for the issuing of an interception of communications warrant in Ghana. I will also deal with Section 4(3) of the Bill which permits the National Security Co-ordinator to orally authorize interception in urgent situations and argue that in other democratic jurisdictions oral applications must also be made to the Judge in chambers to safeguard rights.

Application for authorization for a warrant

Section 5 of the Bill reinforces a power in the National Security Co-ordinator which from the above analysis ought not to be entrusted to and centralized in him. Section 5 of this Bill is conferring power on the National Security Co-ordinator to decide on whether or not to authorize or approve an application to the Court for an interception warrant by the National Security Council Secretariat, Director of the Bureau of National Investigation, the Inspector-General of Police, the Commissioner-General of the Ghana Revenue Authority, the Director-General, Defence Intelligence, the Executive Director, Narcotic Control Board, the Chief Director of the Ministry of Foreign Affairs; or any other person who for the purpose of an international mutual legal assistance agreement is the competent authority of a foreign country.

Firstly, the National Security Council Secretariat is not a security and intelligence agency established under any law in Ghana as required under Article 85 of the Constitution. It was purposefully not created or established under Act 526 as a security and intelligence agency and it cannot be made one simply by listing it in Section 5(2)(a) of the Bill. This is why the

memorandum to the Bill if it complied with the injunctions of Article 106(2) would have dealt with why the National Security Council Secretariat is being given the power proposed.

Secondly, Article 83 of the Constitution setting forth the composition of the National Security Council specifically includes in it the Ministers of Foreign Affairs, Defence, Interior, and Finance and such other Ministers as the President may determine; the Chief of Defence Staff and two members of the armed forces (normally the two most senior of the service commanders); the Inspector-General of Police and two other members of the Police Service, one of whom shall be the Commissioner of Police responsible for Criminal Investigation Department; the Director-General of the Prison Service; the Director of External Intelligence; the Director of Internal Intelligence; the Director of Military Intelligence; and the Commissioner of Customs, Excise and Preventive Services; and three persons appointed by the President. The National Security Co-ordinator is not a member of the National Security Council even though by convention and in accordance with the constitution he is regularly invited to its meetings. In addition to the foregoing the Economic and Organised Crime Office, the Competent Authority for Mutual Legal Assistance, and the Narcotic Control Board are by law under the Ministerial responsibility of the Attorney-General and Minister for Justice, and the Minister for the Interior respectively who are members of the National Security Council. This explains why it is absurd and unconstitutional for the Bill to require these law enforcement, and security and intelligences agencies to seek the approval of the National Security Co-ordinator and to rely on him to apply for an interception warrant on their behalf.

Furthermore, in the case of the Police Service and the Ghana Armed Forces, the Constitution gives to the Inspector-General of Police and the Chief of Defence Staff subject to the control and direction of the Police Council and the Armed Forces Council respectively responsibility for the operational control and administration of their organizations. This provides another absurd and unconstitutional reason why the National Security Co-ordinator should not be assuming powers over them which his office does not give to him under the Constitution and laws of Ghana. This was also one of the reasons why Act 526 avoided interfering with the right of law enforcement and security and intelligences agencies to apply on their own to intercept communications within their areas of competence. The National Security Co-ordinator should not wish to supervise constitutional and legal agencies which do not come under his operational and administrative remit as the Bill seeks to do.

I have already stated that previous Acts of Parliament also provided guidance on what procedures are acceptable to protecting civil liberties in Ghana. Section 27 of the Narcotic Drug (Control Enforcement and Sanctions) Act, 1990 (PNCL 236); Sections 34 of the Anti-Terrorism Act, 2008 (Act 762) as amended; Section 25(5) of the Economic and Organised Crime Office Act, 2010 (Act 804), and Sections 43 to 51 of the Mutual Legal Assistance Act, 2010 (Act 807) also provided elaborate procedures for applying ex parte for interception of communications.

The practice in other countries also support my contention that heads of law enforcement, and security and intelligence agencies are given direct authority to apply for interception warrants or directions. See for instance Section 2 of the Interception of Communications Act (Acts 5 of 202, 18 of 2005 2nd sch) of Jamiaca; Section 5 of the Interception of Communications Act (Act 11 of 2010 as amended by 14 of 2010) Chapter 15:08 of the Laws of Trinidad and Tobago; Section 1 of the Interception of Communications Act [Acts 5 of 2002, 18 of 2005] of South Africa; and Section 5 of the Interception of Communications Act, No. 6/2007, Chapter 11:20 of Zimbabwe. The UK Regulation of Investigatory Powers Act of 2000 together with the Interception of Communications Code of Practice 2015 issued pursuant thereto will also be of great help to Parliament in appreciating the points I am making and how this Bill if it must be enacted can be improved to take account of Chapters 5 and 6 and of the 1992 Constitution generally.

Receipt of applications

Section 6 will be unnecessary if the request for authorization or warrant is made directly by the law enforcement or security and intelligence agency concerned.

However, should the National Security Co-ordinator's office be operating an "Interception Center" which is not backed by law as required by Article 85 of the Constitution the prudent thing to do is to establish the "Office of the Interception Center or Centers" formally under this Bill. This is what the South African Interception of Communications Act did under its Chapter 6. Section 4 of the Interception of Communications Act of Zimbabwe also established the "Monitoring of Interception of Communications Centre (MICC)". The Government Communications Headquarters (GCHQ) of the United Kingdom and the National Security Agency (NSA) of United States America exist by law and are known to the whole world.

Any student of law enforcement and intelligence and security studies in Ghana knows or ought to have known of the existence since 1969 of the Central Telecommunications, Laboratory and Workshop (CTL/W) and its functions. The fact that the NPP administration started to put into operation (without completing) a scheme for the establishment of the Bureau of National Communications (BNC) should also not be secret to the citizens of Ghana under the Constitution. The Constitution demands that the Government of Ghana should transparently and accountably establish these agencies under the authority of law and not to clandestinely seek to use covertly existing organizations to snoop upon the citizens of Ghana. This will be inconsistent with the letter and spirit of the 1992 Constitution.

The Interception Centers that other countries have established are manned by Directors who receive warrants granted directly by the Court to the heads or designated officers of the law enforcement and security and intelligence agencies I have referred to already.

Conditions for interception warrant for security reasons

Section 8 partakes of the analysis and arguments already made that the words "for the purpose of national security" are ambiguous and lack any proportionality to protect the citizen's freedoms and rights to privacy and general freedom and rights to free speech, association, information etc. More seriously Section 8 is as broad as the rendition under the Preventive Detention Act, 1958 which was the reason for the 1969 Constitution introducing the fundamental human rights and freedoms which were expanded under the 1979 Constitution and further expanded under the 1992 Constitution. Ghana experienced abuses under the Preventive Detention Act, 1958. The conditions stipulated under Section 8 of the Bill are not susceptible to any measurement of reasonableness and necessity. Furthermore the Judge who is to grant the warrant does not have any standard to measure the reasonableness and necessity of the conditions contained therein.

It is important that this section is looked at carefully and aligned to be consistent with Chapters 5 and 6 of the Constitution to avoid actions for unconstitutionality of the Bill when passed into law. See further arguments on necessity and proportionality hereunder.

Interception Capability

Section 14! My comments about the role of the National Security Co-ordinator applies here as well.

A careful reading of the provisions of the Bill on interception capability leaves one in no doubt of the necessity for the formal establishment by law of a Government Agency for interception of communications and related matters. The CTL/W and the BNC have existed without legislative backing and may have variously been used for covert surveillance over the years. This Bill provides the opportunity to comply with Article 85 of the Constitution by formalizing them or establishing them as independent security and intelligence agencies. It is unconstitutional to continue to keep their existence secret and under the control of the National Security Co-ordinator who has no powers under the Constitution or any other law to do so.

What prevails in modern democratic societies is for civil control of such agencies by entrusting Ministerial responsibility to a Minister who is answerable to Parliament for the work of the Agency.

Supervision by High Court Judge

Section 18 which require the Chief Justice to appoint "a Justice of the High Court to supervise the implementation of this Act" falls below what other democratic societies do and have done. It is even absurd that the Bill requires the High Court Judge to submit reports on compliance with the Act to the National Security Co-ordinator. It is also absurd that even the Minister with responsibility for Security and Intelligence is made a mere conduit of the National Security Co-ordinator in the transmission of reports on the Act to Parliament. Clearly the National Security

Co-ordinator must be arrogating to himself powers which even the Constitution does not grant him over Ministers of the Republic of Ghana.

Act 526 could also have provided some learning on whether a single High Court Judge is the appropriate mechanism for issuing warrants. Even the US FISA Court is made up of eleven judges and not one judge. These are matters that should have been thought through before the Bill came to Parliament and which should have been addressed in the Memorandum showing why Parliament should depart from the arrangement it had previously made in Act 526.

Aside from the role entrusted to the National Security Co-ordinator, Section 18 of the Bill is badly drafted and does not even meet the democratic standards of similar Acts internationally, such as those of the South Africa, Trinidad and Tobago, and Jamaica to mention but a few. Sections 8 to 11 of the Interception of Communications Act of Trinidad and Tobago and Sections 4 and 5 of the Interception of Communications Act of Jamaica can provide guidelines on what the Court must be satisfied with before it issues an interception warrant. These provisions are intended to reduce abuse of power and to provide guidelines for the exercise of the discretion entrusted to the High Court Judge and to the applicant.

The UK Interception of Communications Code of Practice made pursuant to Section 71 of the Regulation of Investigatory Powers Act 2000 contains guidelines that ensure that an application for a warrant satisfies the requirements of necessity and proportionality commensurate with the law enforcement or intelligence dividends that the application seeks to achieve. The drafters of the Bill would have reaped beneficial results for liberty if they had but consulted most of these resources which are available for free on open source.

Parliament may also wish to consider the fact that in most jurisdictions guaranteeing liberty oral applications are made to the Judge in cases of urgency for a limited duration. The grant of such a right to the National Security Co-ordinator or other public officer is likely to be abused. In some commonwealth countries with parliamentary sovereignty the right is granted to the Secretary of State, the Minister of the Interior, the Attorney-General or some other Minister who is responsible to Parliament.

Regulation

Section 19 of the Bill is most ridiculous by requiring the Minister of the Interior to make legislative instrument for the implementation of the Act on the advice of the National Security Co-ordinator. How will the Minister of the Interior be expected to take ministerial responsibility for a legislative instrument for which he acts as a mere robot of the National Security Co-ordinator in laying it in Parliament. The civil control of law enforcement, defence, and security and intelligence agencies in modern free and democratic societies requires that ultimately a Minister be responsible and answerable for his particular sector to Parliament, and to the people at large.

OBSERVATIONS

Absence of complaints and appeals provisions and procedures

Part V of the Security and Intelligence Agencies Act, 1996 (Act 526) deals with elaborate procedures for the investigation of complaints, a complaints tribunal, and appeals to the Court of Appeal for abuse of the rights of citizens. The Bill does not provide similar rights that guarantee citizens liberty in democratic societies such as ours and Parliament needs to consciously examine this for protecting the rights and freedoms under Chapters 5 and 6 of the Constitution.

Title of the Bill

The real purpose of the Bill is to undertake covert surveillance of communications of all forms and types of citizens and foreigners under the constitution and the law. The practice internationally and in a number of Acts in Ghana is to call such bills by their real names for purposes of transparency and accountability: Interception of Communications Bill. What constitutes communication is then defined in the Bill and would normally include postal packets and telecommunication messages and other forms of communication. The title of the Bill looks like a decoy to prevent the busy citizen from appreciating that the real intention is to limit his civil liberties by law under the Constitution. Consideration ought to be given to whether the title of the Bill should not be changed to meet the international best practice in this area of interception of communications.

Other sections of the Bill

Time and space could not allow me to examine, analyze and comment on each section of the Bill seriatim. It is, however, expected that when the Bill is reconsidered holistically all the sections will be harmonized to achieve the constitutional objective of the Bill without unnecessarily infringing on the liberties of the citizen.

CONCLUSIONS

The examination and analysis of the memorandum to or accompanying the Interception of Postal Packets and Telecommunication Messages Bill, 2015 shows that it did not comply with Article 106 (2) of the Constitution to warrant its introduction in Parliament. The examination and analysis of selected provisions of the Bill have also demonstrated that some of them suffer from unconstitutionality, inconsistency with existing law, or the need to be harmonized with the existing law to achieve the objects of Article 106(2) of the Constitution in addressing defects in the existing law and providing remedies to those defects in the Bill. The results were arrived at with the aid of a content examination and analysis of a number of Ghanaian legislation dealing with interception of communications for law enforcement, and security and intelligence agencies. The results have further been reinforced by legislation and code of practice on

interception of communications from a few Commonwealth countries such as Jamaica, Trinidad and Tobago, South Africa, the United Kingdom, and Zimbabwe.

The foregoing leaves one with the conclusion and conviction that the protection of the civil liberties of Ghanaians requires that the Bill be withdrawn to enable it meet the constitutional precondition for it to be properly introduced in Parliament. This will also give the Minister of the Interior and the Attorney-General more time to harmonize the Bill with existing legislation.

It is important that this Bill obtains bi-partisan support in its eventual constitutional journey through Parliament to vindicate the trust We The People have placed in Parliament to protect our fundamental rights and freedoms guaranteed under Chapter 5 and 6 of the 1992 Constitution. Let us put Ghana First!

Respectfully submitted

Martin A. B. K. Amidu