



ABC Ultimo Centre 700 Harris Street Ultimo NSW 2007 GPO Box 9994 Sydney NSW 2001 Tel. +61 2 8333 1500 abc.net.au

## **FOI APPLICATION**

Dear

I refer to your email of 14 September 2011 in which you sought access to documents under the *Freedom of Information Act 1982* (the FOI Act).

Specifically, you have requested access to:

Details of all complaints lodged by Federal MPs and Senators in respect of ABC programming for the period from January 1, 2010 through to today (14 September). In particular ...details of complaints of bias alleged against ABC journalists and reporters (including the name of complainant and the reason for complaint.

I have decided to refuse access on the basis that any documents which contain information relating to complaints about ABC programming are outside the scope of the FOI Act.

Under section 7(2) and Part 2 of Schedule II of the FOI Act, the ABC is exempt from the operation of the Act in relation to documents that relate "to its program material and datacasting content". The Federal Court of Australia considered the scope of this exclusion in *Australian Broadcasting Corporation v The University of Technology, Sydney* [2006] FCA964, and decided that the exclusion applies to "program material" (such as scripts and tapes) as well as any document that has a "direct or indirect relationship to program material".

I am satisfied that the documents you have described have a relationship with the ABC's program material such that they fall outside the operation of the FOI Act.

You may find the information you are looking for on the ABC's website, which contains statistical information about complaints and details of the complaints that were upheld by the ABC's Audience and Consumer Affairs department. In addition, the reports from the Complaints Review Executive and the Independent Complaints Review Committee are publicly available. You can access this information by copying the following URL into your web browser:

http://www.abc.net.au/contact/complaints.htm

Information about complaints handling is also provided in the ABC's Annual Report. You can access the ABC's Annual Reports electronically by copying the following URL into your web browser: <a href="http://abc.net.au/corp/annual\_reports/arindex.htm">http://abc.net.au/corp/annual\_reports/arindex.htm</a>

If you are dissatisfied with this decision you can apply for Internal or Information Commissioner (IC) Review. You do not have to apply for Internal Review before seeking IC Review. Information about your review rights is attached.

Yours sincerely

**Judith Maude** 

Head Corporate Governance FOI Coordinator Direct line 02 8333 5316