20 January 2015

Australian Broadcasting Corporation

Corporate Affairs
ABC Ultimo Centre
700 Harris Street
Ultimo NSW 2007
GPO Box 9994
Sydney NSW 2001
Tel. +61 2 8333 5261
abc.net.au

[redacted]

By email: [redacted]

Dear [redacted]

FOI REQUEST - REFERENCE NUMBER 2014-039

I refer to your request for access to documents under the Freedom of Information Act 1982 (the FOI Act) in your letter dated 8 December 2014, which I received on 10 December 2014. Specifically, you have sought access to the following documents:

> *"a) All documents generated by Mr [Matthew] Galvin (or his department) which relate directly or indirectly to [your complaint about ABC Television lodged by email on 17 November 2014] (this request exempts documents sent to the complainant.*
>
> *b) All documents generated by ABC staffers, other than Mr Galvin, which relate directly or indirectly to this complaint, including those authorising the withdrawal or reinstatement of the relevant abbreviations during the month of November 2014."*

I am authorised by the Managing Director under section 23 of the FOI Act to make decisions in respect of requests made under that Act. Following is my decision in relation to your request.

Locating and identifying documents

I have taken reasonable steps to identify and locate all relevant documents. My search for these documents involved contacting the following relevant people, who in turn consulted with relevant staff within their respective teams:

- Matthew Galvin, Audience and Consumer Affairs
- Creative Services Manager, Television Marketing.

I requested that searches be conducted of all hard and soft copy records for documents which fall within the scope of your request. As a result of those searches, the following two documents were identified:

Document 1 Email from Matthew Galvin to the Creative Services Manager dated 10 Dec 2014

Document 2 Email from the Creative Services Manager to Matthew Galvin dated 10 Dec 2014.

Please note that in accordance with your instructions, I have excluded correspondence directly with you about your complaint.

Access to documents

The ABC maintains that access to documents relating to the deliberative functions of its Audience and Consumer Affairs area may be refused on the basis that those documents are conditionally exempt under s47C of the FOI Act. Disclosure of such documents under the FOI Act would involve the disclosure of matter in the nature of, or relating to, an opinion or recommendation prepared in the course of the deliberative processes involved in the functions of the ABC.

The ABC has well established procedures in place to deal with complaints which are received. Those procedures include investigating a complaint, considering the facts and circumstances surrounding the alleged breach, seeking opinions from relevant persons, weighing the evidence, forming opinions and making findings.

Guidelines issued by the Australian Information Commissioner under s 93A of the FOI Act (the Guidelines), in particular *Part 6 – Conditional Exemptions* state (at 6.62):

> *"A deliberative process involves the exercise of judgement in developing and making a selection from different options:*
>
> > *The action of deliberating, in common understanding, involves the weighing up or evaluation of the competing arguments or considerations that may have a bearing upon one's course of action. In short, the deliberative processes involved in the functions of an agency are its thinking processes – the processes of reflection, for example, upon the wisdom and expediency of a proposal, a particular decision or a course of action*."

The information in documents created by or provided to Audience and Consumer Affairs typically contain a collection of facts, advice, opinions and recommendations which form part of the 'thinking processes' associated with responding to complaints under the *ABC Code of Practice*.

Disclosure of documents relating to the deliberative processes of the ABC's Audience and Consumer Affairs unit could reasonably be expected to prejudice the ABC's ability to obtain similar information in the future as well as prejudice the ABC's management functions.

In the present case, having regarding to the nature and content of Documents 1 and 2, the ABC is willing to grant access to those Documents by way of administrative release outside the formal FOI process. Copies of those documents are attached. Please note that irrelevant personal information has been redacted from the documents.

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

JMaude.

Judith Maude
Head, Corporate Governance