



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

Dear

I refer to your request for access to documents under the *Freedom of Information Act 1982* (the FOI Act) in your letter that we received on 1 June 2015. Specifically, you have sought access to the following:

- 1. The complete recording of the entire interview and conversation that was conducted by the ABC undercover reporter with the Beijing Agent of Shinyway [for the Four Corners report 'Degrees of Deception', broadcast on 20 April 2015];
- 2. The transcript of the entire interview and conversation that was conducted by the ABC undercover reporter with the Beijing Agent of Shinyway; and
- 3. The English translation of the entire interview and conversation that was conducted by the ABC undercover reporter with the Beijing Agent of Shinyway.

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.

The ABC is specifically excluded from the operation of the FOI Act in relation to its program material by virtue of s7(2) and Schedule 2, Part II of the FOI Act. 'Program material' for the purposes of that Part has been interpreted to mean:

"...the program and all versions of the whole or any part of the program, any transmission broadcast or publication of the program, and includes a document of any content or form embodied in the program and any document acquired or created for the purpose of creating the program, whether or not incorporated into the completed program...it would include a document created after a program is broadcast. Such documents might include transcripts

of radio programs, podcasts, internet pages and documents produced by the ABC or incorporated in its records directly concerning the substantive content of the broadcast program."

The video and audio recordings of all interviews and conversations relating to the production of the *Four Corners* program "Degrees of Deception" were created for the purpose of creating that program for broadcast and/or online publication. Accordingly, the documents described in point 1 of your request are clearly material that was "acquired or created for the purpose of creating the program, whether or not incorporated into the completed program". On that basis, I consider that they are program material and outside the scope of the FOI Act.

The documents described in points 2 and 3 of your request, being transcripts of the interviews and translations of them, would also fall within the meaning of program material, which explicitly includes transcripts

For the reasons outlined above, I am satisfied that the requested documents would, by their nature, fall within the definition of 'program material' and that the ABC would be exempt from the operation of the FOI Act in relation to them. In those circumstances, I do not propose taking further steps to process your request.

If you are dissatisfied with this outcome 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

¹ Australian Broadcasting Corporation and Herald and Weekly Times Pty Limited and Anor [2012] AATA 914 (21 December 2012), see [57].