

Australian Broadcasting Corporation

#### **Corporate Affairs**

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# Dear

I refer to your letter dated 6 June 2012 seeking access to documents under the Freedom of Information Act 1982 (FOI Act). Specifically, you have sought access to "copies of all briefing papers prepared for the incoming Chair, The Hon James Spigelman AC QC".

I have interpreted your request to mean briefing papers prepared for the Chairman when he was appointed and first took up his position. I have included in the scope of 'briefing papers' the induction material which was provided to the Chairman.

I note that the Chairman was given a number of briefings from Executive Directors which did not involve the preparation or presentation of a briefing paper.

I have identified the following six documents which appear to fall within the scope of your request:

- 1. Induction folder
- 2. Briefing from Group Audit
- 3. Briefing folder from People and Learning Division
- 4. Presentation from ABC Communications Networks Division
- 5. Presentation from Technology Division
- 6. Briefing note from Head Operations Planning.

I confirm that 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 access to the above documents:

#### 1 Induction folder

Access to Document 1 is granted in part, and a copy is attached.

For the following reasons, access to parts of the document are refused:

- (a) Attachment K to the document (Directors and Officers Insurance) consists of legal advice provided to the Board by the ABC's Director Legal and Business Services. Accordingly, I consider that it is exempt under s42(1) of the FOI Act as it would be subject to legal professional privilege.
- (b) Attachment A to the document (Membership of the ABC Board) contains personal information about members of the ABC Board which it would be unreasonable to disclose. This information includes their address and phone numbers, include personal information about their families. I consider that this part of the document is conditionally exempt under s47F(1) of the FOI Act. In considering whether to give access to this part of the document I am required to consider whether access would, on balance, be contrary to the public interest under s.11A(5).

I have had regard to factors including whether providing access to this information would promote the objects of FOI Act, inform debate on a matter of public importance, or promote oversight of public expenditure. On balance, having considered those factors, I am satisfied access to this part of the document should be refused.

(c) For the same reasons as outlined at (b) above, Attachment J to Document 1 (ABC Advisory Council – membership and Information Brochure) has been redacted to remove the personal information of members of the ABC Advisory Council.

The following documents which form attachments to Document 1 are available from or via the ABC's website (www.abc.net.au/corp), and copies of them have not been included:

- The ABC Act
- The Commonwealth Authorities and Companies Act
- ABC Editorial Policies
- ABC Code of Practice
- ABC Strategic Plan 2010-13.

### 2 Briefing from Group Audit

Access to Document 2 is granted in part, and a copy is attached.

Document 2 has been redacted to remove the following material which I consider to be conditionally exempt under s47E(b) of the FOI Act:

- (a) 2012-13 Audit Plan Proposed Audit Coverage
- (b) 2011-12 Audit Plan
- (c) 2011-12 Audit Plan Coverage of ABC Strategic Risks.

In my view, disclosure of these parts of the document would have a prejudicial effect on the ABC's internal audit function. Disclosing this information would provide forewarning of anticipated audits, and could reasonably result in evasive or deceptive behaviour, or the preparation of pre-prepared responses which could compromise the integrity of the audit process.

In considering whether it is contrary to the public interest to disclose this information, I have had regard to factors such as whether disclosure will prejudice the ABC's auditing and management processes, and whether providing access to this information would promote the objects of FOI Act, inform debate on a matter of public importance, or promote oversight of public expenditure. On balance, I am satisfied that access to this part of the document should be refused.

### 3 Briefing folder from People and Learning Division

Document 3 comprises the following parts:

- (a) ABC Organisation chart
- (b) Extract from Executive Activity Report to the ABC Board
- (c) People and Learning Business Plan
- (d) Staff profile data
- (e) Work Health and Safety Performance Report dated 23 January 2012
- (f) Extract from Mercer Report Director Remuneration Review dated 19 May 2011
- (g) Advanced Media Leadership Series.

Access to Document 3 is granted in part, and a copy is attached.

Part (b) of Document 3 has been redacted to remove material which I consider to be conditionally exempt under s47E(c) of the FOI Act. That material relates to potential redundancies which have not yet been effected. Premature disclosure of this information could compromise discussions regarding those potential redundancies and/or cause unnecessary concern amongst staff, which in turn would reasonably be expected to have a significant and adverse effect on the ABC's management of its personnel.

Access is refused to part (f) of Document 3 under s47 of the FOI Act. In my view, this document not only contains personal information which it would be unreasonable to disclose (and is therefore conditionally exempt under s47F(1) of the FOI Act), but disclosure could reasonably be expected to have a significant and adverse effect on the ABC's management of its personnel (such that it is conditional exempt under s47E(c) of the FOI Act). The report contains information about the remuneration levels of ABC Executive Directors, and benchmarks them against both the general market and other Australian Public Sector agencies. Disclosure of this information could reasonably be expected to compromise the ABC's ability to effectively negotiate the most beneficial terms and conditions of employment, and may result in increased salary expenses.

On balance, having regard to the public interest factors, I am satisfied that the material outline above is exempt for the reasons given, and access should not be provided.

## 4 Presentation from ABC Communications Networks Division

Access to Document 4 is granted, and a copy is attached.

#### 5 Presentation from Technology Division

Access to Document 5 is granted, and a copy is attached.

### 6 Briefing note from Head Operations Planning

Access to Document 6 is granted, and a copy is attached.

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

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Judith Maude Head, Corporate Governance FOI Coordinator Direct line 02 8333 5316