



By email:

Corporate Affairs

ABC Ultimo Centre 700 Harris Street Ultimo NSW 2007 GPO Box 9994 Sydney NSW 2001

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Dear

I refer to your email of 28 October 2011 in which you sought access to documents under the *Freedom of Information Act 1982* (the FOI Act). Specifically, you have requested access to "the agreement/contract with Bombora Film Co dealing with their rights re the *Wide Open Road*".

I have decided to refuse access on the basis that any documents which contain information relating to *Wide Open Road* 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 document you have described has a direct relationship with the ABC's program material such that it falls outside the operation of the FOI Act.

If you have concerns regarding the factual accuracy of the *Wide Open Road* program, you may contact the ABC's Audience and Consumer Affairs unit. The unit is separate to the content making areas of the ABC, and is responsible for assessing and considering written complaints. The unit will investigate complaints which raise serious editorial issues. Information about the ABC Editorial Policies is available on the ABC's website at www.abc.net.au/corp/

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