

19 June 2015



Australian
Broadcasting
Corporation

[REDACTED]
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[REDACTED]

By email: [REDACTED]

Corporate Affairs

ABC Ultimo Centre
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Ultimo NSW 2007

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Dear [REDACTED]

FOI REQUEST - REFERENCE NUMBER 2015-026

I refer to your requests for access to documents under the *Freedom of Information Act 1982* (the FOI Act) in your two emails dated 6 June 2015. The requests appear to relate to the same material. Accordingly, I propose treating them as a single request for the purposes of processing your application.

You have sought access to the following:

"...copies of all documents relating to the 7.30 report [broadcast] on Thursday 4 June by Pat McGrath[en]titled 'Insurance "churning" creating big commissions [but] disastrous consequences' and the related website article by Pat McGrath [entitled 'Cancer patient could not access income protection as new policy taken out each year']..."

I note that you have also stated that your application is for all documents connected to the particular 7.30 segment and the related online article, including "...all documents recording communications with each of the persons and organisations named in the report or the article".

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..."

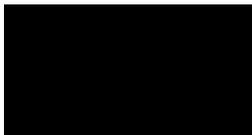
...it would include a document created after a program is broadcast. Such documents might include transcripts of radio programs, podcasts, internet pages and documents produced by the ABC or incorporated in its records directly concerning the substantive content of the broadcast program.”¹

Any document relating to the 7.30 story ‘Insurance “churning” creating big commissions but disastrous consequences’ and the online article ‘Cancer patient could not access income protection as new policy taken out each year’ — including any documents recording communications with each of the persons and organisations referred to in them — would be documents that were created for the purpose of creating that program and article for broadcast and publication respectively.

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].