

Mr	
By email:	

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

FOI REQUEST – REFERENCE NUMBER 2015-029

I refer to your request for access to documents under the *Freedom of Information Act 1982* (the FOI Act) in your email of 25 June 2015. Specifically, you have sought access to the following documents:

- 1) "[Documents pertaining] to the program Q&A [in relation to] the process of a brief pre-show background check that is conducted, i.e. any generic documentation about political affiliation that a member asking a question may have to fill out.
- 2) The questioning documents audience members submitted to producers prior to the airing of the Q&A program [broadcast on] 22 June 2015.
- 3) The prior show briefing documents of the host Mr Tony Jones relating to the [Q&A episode broadcast on] 22 June 2015."

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 <u>after</u> 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

The documents you have requested relating to the production of the particular *Q&A* program specified in your request would have been created for the purpose of creating that program for broadcast. Accordingly, they would clearly be 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 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.

I note that some of the material you appear to have requested, such as the audience registration form, is publicly available:

http://www2b.abc.net.au/AudienceBooking/Client/AudienceRegistration.aspx. As you may be aware, members of the public can submit text and video questions for possible inclusion on *Q&A* without being a part of the studio audience.

There is other information available on the ABC's corporate website regarding the 22 June *Q&A* program which may be of interest to you: http://about.abc.net.au/statements/abc-board-statement/.

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].