

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

By email:

Dear

FOI REQUEST - REFERENCE NUMBER 2014-034

I refer to your request for access to documents under the *Freedom of Information Act 1982* (the FOI Act) in your email of 23 September 2014. Specifically, you have sought access to the following documents:

...A digital text file [of] all the words, numerical frequency and dates associated with them [relating to] a collection of more than 200,000 words Prime Minister Tony Abbott spoke in the 12 months before and the 12 months after the federal election [which] were used to derive the ... following web pages.

http://www.abc.net.au/news/2014-09-23/chris-uhlmann-tony-abbott-language/5760172
http://www.abc.net.au/news/2014-09-22/tony-abbott-before-after-quiz/5746356

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 Part II, Schedule 2 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..." ¹

The document you have requested relates specifically to material published on abc.net.au. The ABC's digital media services form part of its program material. As such, the document includes content that is embodied in ABC program material, or which was created for the purposes of creating the content published as part of that material. I am satisfied that the requested document falls within the definition

¹ Australian Broadcasting Corporation and Herald and Weekly Times Pty Limited and Anor [2012] AATA 914 at [57].

of 'program material', and that the ABC is exempt from the operation of the FOI Act in relation to them.

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