

14 January 2015



Australian
Broadcasting
Corporation

Pinar Yilmaz

Corporate Affairs

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Dear Pinar Yilmaz

FOI REQUEST - REFERENCE NUMBER 2015-001

I refer to your request for access to documents under the *Freedom of Information Act 1982* (the FOI Act) in your email of 26 December 2014. You have sought access to the following documents:

"all internal communications or emails from the 1st January 2013 onwards in relation to the "Armenian Genocide" issue. Anything containing the term 'Armenian Genocide'."

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 by the Administrative Appeals Tribunal 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...[and including] a document created after a program is broadcast [such as] transcripts of programs ... and documents produced by the ABC or incorporated in its records directly concerning the substantive content of the broadcast program.."¹

It appears on the face of your request that the documents you are seeking access to are documents "acquired or created for the purpose of creating [a] program". Please note that in considering this matter I have assumed that you are requesting access to documents which may relate to news or current affairs coverage of the issue of 'Armenian Genocide', including documents produced as part of any research or investigation into stories for potential broadcast or publication.

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

On that basis, I am satisfied that the requested documents fall within the definition of 'program material', and that the ABC is exempt from the operation of the FOI Act in relation to them. If I have misunderstood the nature of your request, please let me know.

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

A handwritten signature in blue ink that reads "jmaude." with a period at the end. The signature is written in a cursive, lowercase style.

Judith Maude

Head, Corporate Governance