

16 March 2015



Australian
Broadcasting
Corporation

Mr Culley Palmer

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: foi+request-982-b686a672@righttoknow.org.au

Dear Mr Palmer

FOI REQUEST - REFERENCE NUMBER 2015-011

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

"emails sent between the ABC and the Department of The Prime Minister and Cabinet (DPMC) during the preparations of a particular "FactCheck" report titled "Fact file: Five facts about terrorism in Australia" [published] 25 February 2015."

I note that you have limited the scope of your request to documents dated between 1 January 2015 and 25 February 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 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."

Your request explicitly refers to emails sent during the preparation of a piece of ABC content that was published on *Fact Check*. As such, any emails (if they exist) would be documents that were created for the purposes of creating the content published on *Fact Check*. Accordingly, 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 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, appearing to read 'J Maude'.

Judith Maude

Head, Corporate Governance