



HIGH COURT OF AUSTRALIA

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Details of Filing

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Important Information

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IN THE HIGH COURT OF AUSTRALIA
SYDNEY REGISTRY

S163/2025

BETWEEN:

THE DIGITAL FREEDOM PROJECT
INCORPORATED (ABN 27 500 105 086)

Plaintiff

and

THE COMMONWEALTH OF AUSTRALIA

First Defendant

THE ESAFETY COMMISSIONER

Second Defendant

THE MINISTER FOR COMMUNICATIONS

Third Defendant

PLAINTIFF'S SUBMISSIONS

Part I: Form of submissions

1. These submissions are in a form suitable for publication on the Internet.

Part II: Issues

2. (A) Does the Plaintiff have standing to seek the relief sought; (B) is Part 4A of the *Online Safety Act* 2021 (Cth) invalid, in whole or in part, because it impermissibly burdens the implied freedom of political communication? (C) Is the Plaintiff entitled to a declaration that Schedule 1, clauses 1-7 and 13-16 of the *Online Safety Amendment (Social Media Minimum Age) Act* 2024 (Cth) are invalid?

Part III: Section 78B Notices

3. The Plaintiff has given notice under s 78B of the *Judiciary Act* 1903 (Cth).¹

¹ Plaintiff's Notice of Constitutional Matter, filed 2 December 2025, Special Case Book (SCB) 11-15.
 Plaintiff

Part IV: Facts

4. The facts are stated in the Special Case dated 22 July 2026 (SC). References to the SCB are to the continuous pagination of the Special Case Book.
5. The Plaintiff agrees with, and adopts, the matters stated in [5]-[13] of the submissions filed for the Plaintiff in proceedings S166/2025, but wishes to emphasise the following, additional matters.
6. **The Plaintiff:** The Digital Freedom Project Incorporated (DFP) is an incorporated association established in New South Wales under the *Associations Incorporation Act* 2009 (NSW).²
7. The objects of DFP include advocating for the rights and freedoms of individuals, particularly young people, to access, use and communicate through digital and social media technologies; they also include promoting and defending freedom of expression, including the implied constitutional freedom of political communication in Australia, in digital contexts.³
8. DFP has members who are 16 years of age and younger. The First and Third Defendants also admit that DFP has members who are age-restricted users aged between 13 and 15.⁴
9. Before s 63D took effect on 10 December 2025, some age-restricted users aged between 13 and 15 used social media accounts to share material, including material constituting political communication.⁵
10. A 2023 survey of 1,064 Australian children and teenagers aged 8 to 16 found that 35% of the 13-to-16-year-olds surveyed nominated social media as one of their three preferred news sources, excluding YouTube. Approximately 27% of the 12-to-16-year-olds surveyed reported engaging in social issues online; 23% reported posting news online relating to social issues.⁶
11. In May 2026 researchers from Western Sydney University, Queensland University of Technology and the University of Canberra published a preliminary report of a longitudinal study of 1,027 Australians aged 10 to 17. Of those who reported being

² SC [7] (SCB 91).

³ SC [8.1]-[8.2] (SCB 91).

⁴ SC [9] (SCB 91); Defence of the First and Third Defendants, filed 27 March 2026 (Defence), [16.2] (SCB 39).

⁵ Defence [12.1] (SCB 39).

⁶ SC [308], [308.1], [308.5] (SCB 175-176).

significantly affected by the social media restrictions, 51% reported receiving less news, 45% reported less opportunity to share views or take action, and 40% reported fewer discussions about news with others.⁷

12. *Information about the 14-15-year age cohort in Australia:* As at 30 June 2025, there were approximately 336,126 Australian children aged 14 years and approximately 339,732 Australian children aged 15 years, totalling approximately 675,858 persons aged 14 to 15 years.⁸

13. Use of online platforms by children aged 13 to 15 was widespread. Nationally representative data obtained between January and September 2024 discloses that 95% of surveyed children aged 13 to 15 used one or more of Facebook, Instagram, Reddit, Snapchat, TikTok, Twitch, YouTube and Discord.⁹

14. On 21 November 2025, eSafety published a non-exhaustive list of services it considered to meet the statutory definition of an age-restricted social media platform (**ARSMP**): Facebook, Instagram, Kick, Reddit, Snapchat, Threads, TikTok, Twitch, X and YouTube (**Identified ARSMPs**).¹⁰

15. Research published by Roy Morgan on 2 December 2025 indicates that, between October 2024 and September 2025, approximately 624,000 Australian children aged 14 to 15 used at least one social media platform during a four-week period. This represents approximately 92.33% of the age cohort identified above.¹¹

16. The SC records that surveyed Year 10 students were likely to use multiple social media platforms. In findings reported in September 2024 from a 2022 survey of more than 26,000 Year 10 students, just over a quarter (27%) used four different platforms.¹²

17. The scale of account restrictions is also substantial. In December 2025, certain Identified ARSMPs reported to eSafety that they had removed or restricted access to around 4.7 million accounts identified as belonging to children under 16. (That figure refers to the number of accounts, not the number of distinct children.)¹³

⁷ SC [309], [309.4]-[309.5] (SCB 176-177).

⁸ SC [301] (SCB 172).

⁹ SC [303], [303.1], [303.4] (SCB 173).

¹⁰ SC [41]-[43] (SCB 97-98).

¹¹ SC [305] (SCB 174), referring to the cohort in SC [301] (SCB 172).

¹² SC [304], [304.3] (SCB 173-174).

¹³ SC [46] (SCB 98).

18. Online platforms provide fora for political communication. For example, Reddit hosts subreddits dedicated to Australian political matters; political posts generate comment threads in which users exchange views, challenge claims and discuss policy. Australian politicians and the Australian Electoral Commission have participated in "Ask Me Anything" sessions, for which an account is required to ask questions, comment on responses and vote.¹⁴
19. Before 10 December 2025, Reddit users who stated that they were under 16 years of age were able to, and did in fact, participate in political discussions concerning education policy, climate policy, health policy and digital regulation.¹⁵
20. Account-based features support the following forms of political communication and activity, illustrated by these examples:
- a. receiving and exchanging information, news and commentary about political and governmental matters;¹⁶
 - b. expressing views through posts, comments and reactions to political content;¹⁷
 - c. discussing and debating political issues and public policy with other users;¹⁸
 - d. putting questions to elected representatives and public institutions, and engaging with their answers; and¹⁹
 - e. organising and promoting participation in civic and political activity, including, by way of example, student-led climate action protests.²⁰
21. Age-restricted users are governed by, and affected by decisions of, the Commonwealth Parliament and Executive. The First and Third Defendants admit that a 15-year-old may, depending on their date of birth and the date of an election, be entitled to vote by that election. DFP submits that their demonstrated political participation is relevant both to public decision-making affecting them in the present, and to their *prospective* participation as electors.²¹

¹⁴ SC [63] (SCB 102), [310]-[312] (SCB 177-179); SC-32 to SC-35 (SCB 1281-1327).

¹⁵ SC [320] (SCB 184); SC-44 (SCB 1420-1434).

¹⁶ SC [56.3]-[56.6] (SCB 100), [311] (SCB 178), [322] (SCB 185).

¹⁷ SC [311] (SCB 178).

¹⁸ SC [311] (SCB 178), [320] (SCB 184).

¹⁹ SC [63] (SCB 102), [312] (SCB 178-179).

²⁰ SC [313.2], [313.4] (SCB 179-180), [323] (SCB 185).

²¹ Defence [25.3]-[25.4] (SCB 46); SC [313] (SCB 179-181), [320] (SCB 184).

22. There are established mechanisms for involving young people in online-safety policy. In its June 2024 submission to the Joint Select Committee, eSafety described its Youth Council, comprising young people aged 13 to 24, as providing opportunities for their insights and perspectives to inform online-safety measures affecting them.²²
23. The Joint Select Committee subsequently recommended that features of the regulatory framework affecting young people be co-designed with them.²³
24. The Special Case identifies tangible examples of political activity by children under 16. Anjali Sharma began campaigning for climate action at 14; Abbie Jane launched the Rainbow Shoelace Project at 12 from Broken Hill. At 11 years of age, Leonardo Puglisi founded (and maintains) an online news channel covering local, national and political news.²⁴
25. Social media is an important means of accessing news and engaging in political communication for young Australians, including children under 16. Account-based functions enable forms of participation not provided by the mere viewing of publicly accessible material.²⁵
26. Where compliance with s 63D prevents an age-restricted user from holding an account, it removes the political functions which require that account. The First and Third Defendants admit the resulting effective burden on political communication, subject to the qualifications in their Defence. Publicly accessible content can still be viewed without an account: the loss of account-dependent participation is distinct from a complete prohibition on receiving political information.²⁶
27. The stated object of Part 4A is to reduce the risk of harm to age-restricted users from certain kinds of social media platforms: s 63B. The First and Third Defendants contend that s 63D pursues that purpose in relation to accounts on platforms with the design features described in rule 4A.²⁷

²² SC [18] (SCB 93); SC-5, eSafety, Submission to the Joint Select Committee on Social Media and Australian Society (21 June 2024), p 9 (SCB 768).

²³ SC [17.5] (SCB 93); SC-4, Joint Select Committee on Social Media and Australian Society, Social media: the good, the bad, and the ugly (November 2024), [5.145], Recommendation 6 (SCB 685).

²⁴ SC [313.2]-[313.3], [313.5] (SCB 179-180); SC-37 to SC-39 (SCB 1339-1367); SC-41 and SC-42 (SCB 1399-1417).

²⁵ SC [306], [308]-[309] (SCB 174-177), [313] (SCB 179-181), [69] (SCB 103), [322], [328] (SCB 185-186).

²⁶ Defence [25.5]-[25.8] (SCB 46-47); SC [64], [69] (SCB 102-103), [322], [328] (SCB 185-186).

²⁷ SC-9, Explanatory Memorandum, Online Safety Amendment (Social Media Minimum Age) Bill 2024 (Cth), [14] (SCB 1127); Defence [28.1] (SCB 48).

28. The design features identified are:²⁸

- a) algorithms, automated processes and recommendation systems which leverage user data to recommend content;
- b) endless feeds which have no apparent end point or refresh with new material, and allow scrolling without selecting a next page;
- c) push notifications, where the user has granted permission through their device or computer;
- d) features which quantify and display popularity or engagement, including likes, comments and other reactions, and content-sorting features such as upvoting and downvoting;
- e) autoplay, through which content plays without the user selecting it; and
- f) time-limited content, available to be viewed only for a limited period after posting.

29. The First and Third Defendants admit that rule 5 does not exclude, as a class, social media platforms used for communication on political and governmental matters. The education-related exclusions concern the purpose of the service, not merely the presence of educational content. DFP submits that those exclusions do not preserve political participation on Identified ARSMPs insofar as it impermissibly burdens the account-dependent political communication on social media platforms, described above.²⁹

30. In August 2025, the Age Check Certification Scheme produced the government-funded Age Assurance Technology Trial report (**AAATT Report**), prepared independently of the funding department and regulators to assess technical feasibility and operational deployability. It reported the following findings:³⁰

- a) age assurance can be done in Australia privately, efficiently and effectively;

²⁸ SC [336.1]-[336.6] (SCB 189-190).

²⁹ Defence [19.4(b)] (SCB 42); SC [37]-[38] (SCB 96-97); SC-12, Explanatory Statement to the Online Safety (Age-Restricted Social Media Platforms) Rules 2025 (Cth), pp 11-12 (SCB 1164-1165).

³⁰ SC [379]-[380] (SCB 204-205); SC-48, AAATT Report, Part A, headline findings and section A.3 (SCB 1745, 1761).

- b) no substantial technological limitations were identified which would prevent deployment to meet policy requirements, although performance and suitability depend on the context and implementation;³¹
- c) age estimation offers a low-friction, privacy-conscious method of age assurance, but produces probabilistic results and may be unsuitable where verified, deterministic proof of age is required.³²

31. Section 63DB restricts the collection of government-issued identification material and the use of an accredited service for purposes including compliance with s 63D. Those restrictions do not apply if the provider supplies alternative means, considered to be reasonable in the circumstances, by which the individual can demonstrate that they are not an age-restricted user. Government-issued ID may therefore be an option but must not be the only reasonable means provided.³³

Part V: Argument

32. DFP agrees with, and adopts, the arguments set out in [26]-[73] of Reddit's submissions filed in proceedings S166/2025.

33. Notwithstanding that adoption, DFP emphasises the following, additional matters.

34. **Standing:** Without elaboration, the Defendants contend that DFP does not have standing to bring these proceedings.³⁴

35. The matters stated in [6]-[8], above, are sufficient to confer standing upon DFP.

36. *First*, it was recognised in *Australian Conservation Foundation v The Commonwealth* (1980) 146 CLR 493 at 547 (Mason J) that an incorporated association may have standing to challenge the constitutional validity of legislation, as opposed to its ability to embark upon proceedings to prevent the violation of a public right or to enforce the performance of a public duty.

³¹ SC-48, Part A, section A.3 (SCB 1761), [A.27.1]-[A.27.4] (SCB 1828-1829).

³² SC-48, Part A, p 73 (SCB 1819).

³³ Defence [23.2(a)] (SCB 44); SC-11, Supplementary Explanatory Memorandum, [7]-[11] (SCB 1150); SC-49, Guidance, p 8 (SCB 2386).

³⁴ Defence [1.3] (SCB 35).

37. *Secondly*, DFP has the requisite ‘private or special interest’ required to meet the standing test: *Anderson v The Commonwealth* (1932) 47 CLR 50 at 52 (Gavan Duffy CJ, Starke and Evatt JJ); *Pape v Federal Commissioner of Taxation* (2009) 238 CLR 1 at [47] (French CJ).
38. *Thirdly*, DFP has members who are 16 years of age and younger.³⁵ That is precisely the age cohort with which these proceedings are concerned. In that sense, DFP’s involvement in these proceedings constitutes advocacy on behalf of its membership of the ages of 16 and under – and thereby goes beyond the “mere intellectual or emotional concern” instanced by Gibbs J in *Australian Conservation Foundation v The Commonwealth* at 530, and clothes DFP with the requisite standing to bring these proceedings.
39. ***Suitability***: DFP submits that the restriction on account holding is insufficiently directed to the risks identified. The following matters are germane to the relationship between the identified risks and the restriction, and upon the assessment of its benefits and burdens.
40. Rule 4A narrows the statutory definition by reference to recommender and logged-in features. Nevertheless, the obligation in s 63D is to take reasonable steps to prevent age-restricted users having accounts; it does not distinguish by their content between particular political communications, or a particular child’s use of the identified features. The measure therefore deprives under-16-year-olds of account-dependent political participation.³⁶
41. Section 63D does not prescribe the particular steps that a platform must take. The Guidance adopts a principles-based and context-dependent approach, leaving it to platforms to determine their measures and acceptable error thresholds, without specifying a minimum accuracy level. Although the AAATT Report was a “key input” to the Guidance, the framework leaves those implementation choices to individual platforms. Those choices are relevant to the practical burdens of the scheme.³⁷
42. Age assurance involves limitations and trade-offs. The Guidance recognises reduced accuracy near legal thresholds and continuing demographic challenges; also, buffer thresholds intended to prevent underage access may over-block eligible users aged 16

³⁵ SC [9] (SCB 91).

³⁶ Defence [19.1(c)], [19.2(a)] (SCB 41), [25.5]-[25.8] (SCB 46-47); SC [40] (SCB 97), [336]-[338] (SCB 189-191).

³⁷ SC [380] (SCB 204-205); SC-9 [11]-[12] (SCB 1126), [31] (SCB 1129); SC-49, Guidance, pp 4, 19-20, 22 (SCB 2382, 2397-2398, 2400).

and over. These limitations do not establish that every method is unworkable. There is a mean average error of less than two years for Yoti across ages 13 to 20, and the AAATT reports technical feasibility.³⁸

43. Circumvention is possible by various means: VPN use, subject to anti-circumvention measures, use of an adult's device or account, use of deepfake artificial intelligence technologies, and use of an adult's face or another image. The April 2026 Chicago working paper also reports survey evidence of continuing use: among 14-15-year-olds in its sample, 63.8% reported using a banned platform during the preceding week. It reports workarounds including false birthdates, adult accounts and VPNs.³⁹
44. There appears to be no scientific consensus about causal links between social media use and particular harms, or their pathways. That is not to say that no credible risk exists: there have been reported credible risks based on peer-reviewed research, including risks of depression, anxiety and suicidal behaviours. The National Academies' review did not support a conclusion that social media causes changes in adolescent health at the population level.⁴⁰
45. The evidence concerning the effects of a complete restriction is a separate question. The Cambridge report, reviewing evidence relevant to a proposed UK under-16 ban, described the evidence base for a complete social media ban improving adolescent mental health or wellbeing as poor, while recognising severe individual harms and the need for urgent intervention. The Cambridge report expressly cautions that "absence of evidence is not evidence of absence". Its review concerns mental health and wellbeing, not every possible protective outcome. That report supports the conclusion that there is room for doubt about the mental-health and other benefits of a complete restriction for the general adolescent population.⁴¹
46. The restriction also risks removing beneficial sources of connection, support and participation. In June 2024, eSafety warned that age-based restrictions could limit access to critical support, encourage secret use of less-regulated services and

³⁸ SC [379], [385] (SCB 204-205); SC-49, Guidance, pp 13, 22-23 (SCB 2391, 2400-2401); SC-48, Part A (SCB 1745, 1761).

³⁹ SC [388] (SCB 206); SC [382] (SCB 205); SC-51, Bursztyrn et al, Why Bans Fail: Tipping Points and Australia's Social Media Ban (working paper, 27 April 2026), sections 3-4 (SCB 2456-2458). The main survey comprised 507 Australians aged 14-18, surveyed between 8 March and 6 April 2026; 45% were aged 14-15.

⁴⁰ SC [329] (SCB 187), [354]-[356] (SCB 198-200); SC-45, National Academies of Sciences, Engineering, and Medicine, Social Media and Adolescent Health (2024) (Consensus Report), pp 5-6 (SCB 1459-1460). See also SC [345] (SCB 194), distinguishing association from causation.

⁴¹ SC [331.2] (SCB 187-188); SC-47, Digital Mental Health Group, University of Cambridge, Social Media Bans: Overview of Key Studies (March 2026), pp 2-4, 9-10 (SCB 1717-1719, 1724-1725).

discourage the seeking of help from adults. The Consensus Report identifies particular benefits for young people with disabilities, neurodiverse young people and LGBTQ+ young people, including those in rural areas. There appear to be higher rates of online civic participation among Aboriginal and Torres Strait Islander youth and LGBTIQ+ youth, and associations between active communication and reduced loneliness or depressive symptoms. These matters tend to emphasise the significance of the lost benefits of online social interaction.⁴²

47. **Necessity:** DFP submits that a more targeted combination of measures could achieve the protective purpose just as well, and with a lesser burden on political communication. The following regulatory models and potential approaches support that contention:

- a) legislating to permit account access for 14-15-year-olds with parental consent (as in the model examined in the French Report) alongside its exclusion of beneficial or very low-risk services;⁴³
- b) legislating for an alternative digital duty of care, requiring providers to assess and mitigate risks in their systems and processes (as recommended by the Joint Select Committee and the statutory review of the *Online Safety Act*);⁴⁴
- c) providing a remedy in damages whereby a breach of a statutory protective duty has caused significant mental or physical harm to a child. The French Report proffers a statutory tort-model, although its proposed duty concerns restricted access; adapting that remedy to a more targeted protective duty would require further legislative design;⁴⁵
- d) requiring effective user controls over harmful features, supported by existing functionality (for example, as disabling Reddit autoplay and recommendations) and device-level controls which disable or schedule notifications;⁴⁶

⁴² SC-5, pp 10-12 (SCB 769-771); SC-45, Consensus Report, pp 77-78 (SCB 1531-1532); SC [317] (SCB 182), [358] (SCB 200).

⁴³ SC [19]-[20] (SCB 93-94); SC-6, French Report (September 2024), pp 5, 42 (SCB 806, 843).

⁴⁴ SC [398]-[402] (SCB 208-209); SC-4 [5.141], Recommendation 2 (SCB 684).

⁴⁵ SC-6, French Report, pp 44-45 (SCB 845-846).

⁴⁶ SC [79], [81] (SCB 105-106), [338] (SCB 190-191), [419]-[422] (SCB 215); SC-4 [5.143], Recommendation 4 (SCB 683).

- e) requiring platforms to modify or disable identified harmful features and incorporate safety-by-design principles as opposed to excluding children from all account-dependent uses of a regulated service;⁴⁷
- f) enforcing the existing content-focused framework, including the Basic Online Safety Expectations, applicable industry standards and the Age-Restricted Material Codes. Since 9 March 2026, the latter expressly regulate self-harm, suicide and disordered-eating content through specified age-assurance and access-control measures for users under 18;⁴⁸
- g) combining content-focused regulation with online-safety education and parental controls, including the device and application controls described in the SC.⁴⁹

48. Several of these models antedated the passage of the Amendment Act: the French Report was delivered in September 2024, the Joint Select Committee reported in November 2024, and the Government announced development of a digital duty of care on 13 November 2024. Yoochooz and Qustodio were available before Part 4A was enacted.⁵⁰

49. DFP does not contend that any single parental-control tool eliminates *every* risk. There appear to be variations in uptake and effectiveness, difficulties with configuration and monitoring, and possible circumvention. Nor does the available research establish the comparative effectiveness of every alternative. DFP instead contends that enforceable, targeted obligations, when combined with available controls and education, offer a less restrictive and more appropriately adapted way of addressing the identified risks while retaining the potential for political participation and significantly ameliorating the presently impermissible burden on the implied freedom.⁵¹

50. ***Adequacy of balance:*** DFP submits that the loss of account-dependent political participation is disproportionate to the protections said to result from the scheme. The restriction on holding an account in a child's own right applies notwithstanding parental consent; it does not, however, prevent a parent permitting use of the parent's account

⁴⁷ SC-4 [5.132]-[5.133] (SCB 683), [5.143] (SCB 685), [5.149], Recommendation 10 (SCB 686); SC-5, pp 7-8 (SCB 766-767).

⁴⁸ SC [359] (SCB 200), [377] (SCB 204), [392]-[397] (SCB 208).

⁴⁹ SC [404]-[434] (SCB 212-217); SC-5, pp 3, 9, 12 (SCB 762, 768, 771); SC-4 [5.68]-[5.70] (SCB 666-667).

⁵⁰ SC [20] (SCB 93-94), [17.5] (SCB 93), [400] (SCB 209), [428], [434] (SCB 216-217), [359], [377] (SCB 200, 204), [410] (SCB 213).

⁵¹ SC [337]-[338] (SCB 190-191), [435]-[436] (SCB 217-218); SC-47, p 9 (SCB 1724).

or prohibit all logged-out access. Even with those qualifications and the service-level exclusions, the obligation does not preserve the child's independent account-based participation in the various political fora identified in the Special Case.⁵²

51. The scheme also entails a substantial framework of compliance and supervision directed to excluding age-restricted account holders, including:

- a) platform-specific decisions about reasonable steps and error thresholds, subject to regulatory monitoring and enforcement;⁵³
- b) implementation-dependent collection and use of personal information for age assurance. While concerns have been raised about increased sensitive-data collection, the Guidance calls for those concerns to be considered alongside data-minimising options, including use of existing information without collecting more;⁵⁴
- c) the information-handling safeguards in Part 4A, including restrictions on use and disclosure and a destruction obligation for information collected for the specified purposes, alongside applicable obligations under the *Privacy Act*;⁵⁵
- d) enforcement powers including applications for injunctions and civil penalties. The recorded maximum for a corporate contravention of s 63D is 150,000 penalty units, equivalent to \$49.5 million.⁵⁶

52. The implementation burdens can extend to users aged 16 and over. The Guidance recognises that age assurance at account creation may change their experience, and that estimation buffers may over-block eligible users. It also states that requiring all existing Australian account holders to prove their age through age verification may be unreasonable and unnecessary to achieve compliance.⁵⁷

53. The alternative-means safeguard in s 63DB is material, but does not remove the need to examine how available methods may affect users in practice. The Guidance recognises barriers facing users without identity documents and users in vulnerable

⁵² SC-9 [29]-[30] (SCB 1129); SC [37]-[38] (SCB 96-97), [63], [69] (SCB 102-103), [322], [328] (SCB 185-186); SC-51, section 2 (SCB 2455).

⁵³ SC-49, Guidance, pp 19-20, 22-23, 46-51 (SCB 2397-2398, 2400-2401, 2424-2429).

⁵⁴ SC [389.6] (SCB 207); SC-49, Guidance, pp 13-14, 25, 31-32 (SCB 2391-2392, 2403, 2409-2410).

⁵⁵ Defence [23.2(b)]-[23.2(c)] (SCB 44); SC-49, Guidance, pp 24-25 (SCB 2402-2403).

⁵⁶ Defence [19.3] (SCB 41-42); SC-9 [28], [34] (SCB 1129-1130); SC-49, Guidance, p 51 (SCB 2429).

⁵⁷ SC-49, Guidance, pp 13, 28, 37 (SCB 2391, 2406, 2415).

circumstances, and calls for a range of methods and appropriate support.⁵⁸ In other words, the supposed prohibition on requiring government ID when undergoing age-checking is not effective, in that s 63DB does not prohibit the requirement of government ID, but only requires the social media platform provider to offer reasonable alternatives, which the applicant may or may not be able to provide.

54. The Guidance also expects or encourages providers to adopt the following measures in implementing the reasonable-steps obligation:⁵⁹

- a) accessible, fair and timely complaints and review mechanisms for adverse age-assurance and account decisions, with human oversight of review processes;⁶⁰
- b) accessible, inclusive and fair age-assurance methods, with measures addressing demographic bias, lack of documentation and individual vulnerability; and⁶¹
- c) testing, documented evaluation, appropriate independent audits, record keeping and reporting sufficient to demonstrate compliance. The Guidance is accompanied by regulatory information-gathering and enforcement powers.⁶²

55. DFP submits that, when the loss of account-dependent political participation is weighed against the implementation burdens, the uncertainty concerning the benefits of a complete restriction and the identified targeted alternatives, the burden is unable to be justified.⁶³

Part VI: Orders sought

56. The questions of law should be answered as follows:

- 1) Yes. The Plaintiff has standing to bring these proceedings;
- 2) Part 4A is wholly invalid;
- 3) Declare that Schedule 1, clauses 1-7 and 13-16 of the *Online Safety Amendment (Social Media Minimum Age) Act 2024* (Cth) are invalid;
- 4) The Defendants.

⁵⁸ Defence [23.2(a)] (SCB 44); SC-49, Guidance, pp 8, 25-26 (SCB 2386, 2403-2404).

⁵⁹ SC-9 [11]-[12] (SCB 1126).

⁶⁰ SC-49, Guidance, section 2.4.4, pp 41-42 (SCB 2419-2420).

⁶¹ SC-49, Guidance, section 2.3.3, pp 25-26 (SCB 2403-2404).

⁶² SC-49, Guidance, pp 23-24, 45, 48-51 (SCB 2401-2402, 2423, 2426-2429).

⁶³ Defence [25.5]-[25.8] (SCB 46-47); SC [329] (SCB 187), [354]-[356] (SCB 198-200); SC-47, pp 3-4, 9-10 (SCB 1718-1719, 1724-1725).

Part VII: Estimate of time

57. The Plaintiff estimates that it will require 1.5 hours for oral argument, including any reply.

Dated: 8 September 2026



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ANNEXURE TO THE PLAINTIFF'S SUBMISSIONS

No	Description	Version	Provision(s)	Reason for providing this version	Applicable date(s)
<i>Commonwealth</i>					
1.	The Constitution	Not specified	ss 7, 24	Provisions considered in the SC	All relevant times
2.	<i>Online Safety Act 2021 (Cth)</i>	Not specified	s 5, Pt 4A	Provisions considered in the SC	All relevant times
3.	<i>Online Safety (Age-Restricted Social Media Platforms) Rules 2025 (Cth)</i>	Not specified	rr 4A, 5	Provisions considered in the SC	From 26 Mar 2026 (r 4A); relevant times (r 5)
4.	<i>Online Safety Amendment (Social Media Minimum Age) Act 2024 (Cth)</i>	As made	Whole	For illustrative purposes	N/A
5.	<i>Online Safety (Basic Online Safety Expectations) Determination 2022 (Cth)</i>	Not specified	Whole	For illustrative purposes	N/A
6.	<i>Online Safety (Relevant Electronic Services – Class 1A and Class 1B Material) Industry Standard 2024 (Cth)</i>	Not specified	Whole	For illustrative purposes	N/A
<i>Foreign Statutes</i>					
7.	<i>App Store Accountability Act 2025 (Utah), as amended in 2026</i>	SC-61 version	Whole	For illustrative purposes	Amendments take effect 6 May 2027; illustrative only
8.	<i>Digital Services Act 2022 (EU)</i>	SC-58 version	Whole	For illustrative purposes	N/A
9.	<i>Healthier Social Media Use by Youth Act (Colorado)</i>	SC-65 version	Whole	For illustrative purposes	N/A
10.	<i>Minor Protection in Social Media Act 2024 (Utah)</i>	SC-62 version	Whole	For illustrative purposes	N/A
11.	<i>Online Protection of Minors Act (Florida)</i>	SC-64 version	Whole	For illustrative purposes	N/A
12.	<i>Online Safety Act 2023 (UK)</i>	SC-57 version	Whole	For illustrative purposes	N/A
13.	<i>Social Media Safety Act (Arkansas)</i>	SC-63 version	Whole	For illustrative purposes	N/A