HIGH COURT OF AUSTRALIA

NOTICE OF FILING

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Details of Filing

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Important Information

This Notice has been inserted as the cover page of the document which has been accepted for filing electronically. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties and whenever the document is reproduced for use by the Court.

IN THE HIGH COURT OF AUSTRALIA
SYDNEY REGISTRY

BETWEEN:

REDDIT, INC.
Plaintiff

and

COMMONWEALTH OF AUSTRALIA
First Defendant

MINISTER FOR COMMUNICATIONS
Second Defendant

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

DEFENDANTS' OUTLINE OF ORAL SUBMISSIONS

PART I INTERNET PUBLICATION

1. This outline of oral submissions is in a form suitable for publication on the internet.

PART II PROPOSITIONS TO BE ADVANCED IN ORAL ARGUMENT

Common design features giving rise to credible risks of harm

2. The ten social media platforms described in the Special Case share common design features which are designed to, and do in fact, maximise users' engagement. The platforms have a strong incentive to maintain design features that maximise engagement: Cth Reddit Subs [4]-[6]; SC [292], [296]-[300], [335.1], [336] (SCB V1 169-170, 189-190).

3. Those design features give rise to credible risks of serious harm to children, namely addictive or problematic use of social media; alteration of brain development; negative effects on sleep; depression, anxiety and suicidal ideation; reduced attention span; intensification of ADHD symptoms; and exacerbation of disordered eating: Cth Reddit Subs [6]; SC [334]-[376] (SCB V1 188-204).

Relevant operation of the Act

4. The Court should assess s 63D in its operation with s 63C(1)(a)(i)-(iv) and r 4A. That is the operation which presently imposes an obligation on Reddit: Cth Reddit Subs [13]-[17]; *Farm Transparency* (2022) 277 CLR 537 at [19]-[21], [107] (JBA V5 T21); *Mineralogy* (2021) 274 CLR 219 at [56]-[59] (JBA V6 T28); *Unions [No 3]* (2023) 277 CLR 627 at [25]-[27] (JBA V8 T36).

Characterisation of burden

5. The burden is indirect in nature and modest in extent: Cth Reddit Subs [19]-[24]; cf Reddit [38], Reddit Reply [3].

6. Section 63D does not prohibit a child from, or penalise a child for, holding an account or making or receiving a communication. The restriction in s 63D is content and viewpoint-neutral. The restriction is to be assessed against existing terms of use requiring users to be at least 13 to create an account: SC [44]-[45] (SCB V1 98). The duration of the restriction is limited to a period of particular vulnerability to harm. The material before the Court does not establish a substantial practical restriction in respect of people aged 16 or over: cf Reddit [37], Reddit Reply [7].

Purpose

7. The purpose of s 63D is to reduce the risk of harm to age-restricted users from using accounts on platforms with design features such as algorithmic content recommendation, endless scroll, persistent notifications and alerts, and "likes": Cth Reddit Subs [26]; Explanatory Memorandum at 4, 20 [25], 21 [29] (SCB V3 Annexure SC-9, 1112, 1128, 1129). Rules 4A and 5 are consistent with that purpose.

8. The purpose of protecting children's health and wellbeing against credible risks of serious harm is legitimate and compelling, which bears on justification: Cth Reddit Subs [27], [29]; *McCloy* (2015) 257 CLR 178 at [84] (JBA V5 T27). The material before the Court permits a reasoned assessment of the risks without assigning a numerical probability to each harm: cf Reddit [58], Reddit Reply [10]. There is more than sufficient material for Parliament to take steps to reduce those risks: *McCloy* at [233]; *Spence* (2019) 268 CLR 355 at [96] (JBA V7 T32).

Justification

9. The restriction in s 63D, operating with s 63C(1)(a) and the additional condition in r 4A, is tailored to its protective purpose: Cth Reddit Subs [32]-[38]. Account exclusion removes some pathways to harm and disrupts others by changing the information and functions available on platforms. The current operation of the law does not prevent a provider from providing an account-based service for children under 16 without the harmful design features.

10. The exclusions in r 5 preserve services with different principal functions. That excluded services may pose some risks does not negate the protection secured by the s 63D restriction as it operates with s 63C(1)(a): Cth Reddit Subs [39]; cf Reddit [48]-[49], Reddit Reply [15].

11. Foreign decisions concerning different restrictions and facts do not usefully inform the assessment of s 63D: cf Reddit [64]-[65], Reddit Reply [12].

12. The restriction in s 63D has a substantive practical effect, which supports its capacity to interrupt pathways to harm in practice: SC [46]-[47] (SCB V1 98). The evidence is that age assurance through successive validation is technically viable and operationally effective: SC [380.3] (SCB V1 205); SC-49 at 15, 31 (SCB V7 2393, 2409); SC-48 [A.37.1]-[A.37.2] (SCB V6 1855).

13. None of the alternatives advanced by the plaintiffs is an obvious and compelling way to provide comparable protection with a significantly lesser burden on political communication: *Banerji* (2019) 267 CLR 373 at [35] (JBA V4 T20); Cth Reddit Subs [45]-[51]; cf Reddit [66]-[73], Reddit Reply [18]-[19], DFP [47]-[49], DFP Reply [16].

Dated: 3 November 2026

Stephen Lloyd SC Joanna Davidson SC Thomas Wood Julia Wang Marcel Delany