HIGH COURT OF AUSTRALIA

NOTICE OF FILING

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Details of Filing

File Number:	S163/2025
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Important Information

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IN THE HIGH COURT OF AUSTRALIA
SYDNEY REGISTRY

No. S166/2025

BETWEEN:

REDDIT, INC.
Plaintiff

and

COMMONWEALTH OF AUSTRALIA
First Defendant

and

MINISTER FOR COMMUNICATIONS
Second Defendant

IN THE HIGH COURT OF AUSTRALIA
SYDNEY REGISTRY

No. S163/2025

BETWEEN:

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

and

COMMONWEALTH OF AUSTRALIA
First Defendant

and

THE ESAFETY COMMISSIONER
Second Defendant

and

MINISTER FOR COMMUNICATIONS
Third Defendant

SUBMISSIONS OF THE ATTORNEY-GENERAL FOR THE STATE OF SOUTH AUSTRALIA (INTERVENING)

Part I: CERTIFICATION

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

Part II: OUTLINE OF ORAL SUBMISSION

2. The extent of the burden on political communication imposed by Pt 4A of the *Online Safety Act 2021* (Cth) (**Act**) is moderate. The incremental burden is limited because all of the age-restricted social media platforms identified by the eSafety Commissioner require users to be at least 13 years old to create an account. Further, Pt 4A does not prevent children aged 13-15 from accessing political information, or communicating about political matters, generally. The nature of the burden imposed by Pt 4A is incidental because the restriction imposed is content and viewpoint neutral.

3. The purpose of Pt 4A is to reduce the risk of harm to age-restricted users from the use of accounts on platforms with the kinds of design features identified in the extrinsic materials. These materials included the *Report of the Independent Legal Examination into Banning Children's Access to Social Media* (2024) (**French Report**) (SC-6, 802, 805, 837, 848, 850, 861, 864) and the *US Surgeon General's Advisory: Social Media and Youth Mental Health* (2023) (**Surgeon General's Advisory**) (SC-8, 1080ff), both of which were referred to in the *Explanatory Memorandum to the Online Safety Amendment (Social Media Minimum Age) Bill 2024* (SC-19, 1107, 1110, 1116): SCB, 92-95. This purpose is both legitimate and compelling.

4. Given that Pt 4A imposes only a moderate and incidental burden, in pursuit of a compelling purpose, the Plaintiffs' submissions that the Court should apply intense scrutiny and require compelling evidence should be rejected: Reddit's Submission (**RS**), [38], [58], [65]; Reddit's Reply, [10]. It is inconsistent with articulation of the relevant principle by the Chief Justice in *McCloy v New South Wales* (2015) 257 CLR 178 (V5, T27), 239 [156]. Rather, calibrated by reference to burden *and* purpose, the degree of justification required is relatively modest.

5. It follows that it is not necessary for the Court to be satisfied, by compelling evidence, of a scientific consensus of a causative link between social media use and the harms identified in the Special Case: cf RS, [65]. Indeed, the expert advice contained in the Surgeon General's Advisory strongly urged a precautionary approach (SC-8, 1080, 1090-1093).

6. The analogy that the Plaintiffs seek to draw with *Unions NSW v New South Wales* (2019) 264 CLR 595 (***Unions no 2***), (V8, T35) should be rejected. In that case, the expert advice was that further inquiries are needed *prior* to implementation: *Unions no 2*, [26], [99], [117], [145]. By contrast, the expert advice in the Surgeon General's Advisory was that implementation should occur *now* and that further research should be conducted in parallel: SC-8, 1083, 1092-1093.

Dated: 4 November 2026

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