HIGH COURT OF AUSTRALIA

NOTICE OF FILING

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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 of 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

IN THE HIGH COURT OF AUSTRALIA

SYDNEY REGISTRY S166 of 2025

BETWEEN:

REDDIT, INC.

Plaintiff

and

COMMONWEALTH OF AUSTRALIA

First Defendant

MINISTER FOR COMMUNICATIONS

Second Defendant

OUTLINE OF ORAL SUBMISSIONS OF THE ATTORNEY GENERAL FOR THE STATE OF WESTERN AUSTRALIA (INTERVENING)

PART I: CERTIFICATION

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

PART II: PROPOSITIONS TO BE ADVANCED IN ORAL ARGUMENT

Extent of the burden on the implied freedom

2. At the systemic level, the extent of the burden imposed by Pt 4A of the Act is more accurately described as moderate than as "very substantial" (Reddit [38]) or "very profound" (Ts 3/11/2026, p 47): **WA Reddit Subs [17]**.

3. The statistics about general social media use by children under the age of 16 (**children**); statistics about the use of social media as a source of news by children; and the handful of examples of clearly exceptional children with large followings on social media, relied upon by Reddit, do not establish that age-restricted social media platforms (**ARSMPs**) are "tools of political communication which are of central importance… in 2026" (Reddit [27]) and more "effective" than other tools of political communication (Reddit [38], Reddit Reply [3]). This is because:

   (a) not all news involves political communication: **Book of Documents referred to in the Further Particulars of the Special Case (BoD), vol 2, 839, 859**;

   (b) the Special Case does not indicate that children were using ARSMPs to a very substantial degree as a tool of *active* political communication at a systemic level:

      (i) only a small proportion of children who engage with news on social media share a news story on social media: **BoD, vol 2, 830**;

      (ii) there is a dearth of information on how people engage with comments on social media posts in a quantitative sense; and

      (iii) "likes" and "votes" are a very blunt form of communication;

   (c) the fact that ARSMPs are "commonly used" does not necessarily mean they are "most effective" or most effective for *political communication* given:

      (i) frequency of use of ARSMPs can equally be explained by the design features they possess which are intended to maximise user engagement; and

      (ii) it is far from clear that social media is a source of reliable, accurate and uncensored communications about political and governmental matters so

as to enable the people to exercise a free and *informed* choice as electors: ***Lange v Australian Broadcasting Corporation*** (1997) 189 CLR 520, 560 (the Court) (**JBA, vol 5, tab 24**);

(d) there is no evidence that the handful of examples of clearly exceptional children with large followings on social media identified in the Special Case are representative of a certain proportion of Australian children who use ARSMPs;

(e) the "audience" of most children on most ARSMPs is limited to people they already know or have some connection with, which generally means they will have other means of communicating with those persons: **BoD, vol 3, 896-897**; and

(f) the counterfactual to the introduction of Pt 4A is that children will use other convenient and free sources of news, including online and electronic sources; and other tools for active and public mass communication (including political communication) such as websites, radio, podcasts, Microsoft TEAMs/Zoom, direct messaging apps, email, protest/civic action apps, physical flyers and posters with QR code links to websites, word-of-mouth networks and affiliations and relationships with organisations and adults with accounts on ARSMPs.

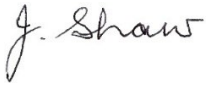
WA Reddit Subs [20], [22], [24], [26]-[28], [30].

A complementary aspect of Pt 4A's legitimate purpose relating to harmful content

4. Pt 4A is intended to achieve its legitimate purpose (of reducing the risk of harm to Australian children from the use of certain kinds of social media platforms) by minimising the risk of harm associated with the use of accounts on social media platforms that have the design features specified in s 63C of the Act and r 4A of the Rules, which arises regardless of whether the content being accessed on the platforms is otherwise harmful or not: **WA Reddit Subs [31], [39]-[40]**.

5. In doing so, Pt 4A *also* reduces the risks associated with certain harmful content because the design features specified in s 63C and r 4A have the capacity to amplify the effects of harmful content by sustaining a child's engagement with it: **WA Reddit Subs [39]**.

Dated: 4 November 2026



10 Jean Shaw SC Michael Olds