IN THE ADMINISTRATIVE APPEALS TRIBUNAL

BETWEEN:

Applicant

CHRIS ELSTON ('BILLBOARD CHRIS')

- and -

Respondents

(1) ESAFETY COMMISSIONER (IN HER OFFICIAL CAPACITY) ('THE COMMISSIONER')

(2) TEDDY COOK

Interested Party

(3) X CORPORATION ('X')

NOTICE OF APPEAL

A. Introduction

1. This is an appeal under Section 220(2) of the *Online Safety Act 2001* (Cth) ('the Act') made against a removal notice issued to X (formerly known as Twitter) under Section 88 of the Act on the 22nd of March 2024 by the eSafety Commissioner. This notice was issued following a complaint made by Teddy Cook, who is a consultant for the World Health Organization ('WHO') and a member of the senior leadership team of ACON[1], a controversial organization that claims to promote LGBTQ+ equality.
2. The end user who wrote the post in question was Chris Elston, more popularly known as Billboard Chris, who did so on his handle @BillboardChris. According to the email metadata, X forwarded the removal notice to him on March 25, 2024 at 3:58:46 PM PDT.[2]
3. Billboard Chris is a campaigner against child abuse. He campaigns to protect vulnerable children from the harms of puberty blockers, cross-sex hormones, and surgeries which are done in the name of 'gender-affirming care'. He does this by wearing 'billboards' in public and having peaceful discussions about this issue across the world. His campaign has obtained international coverage and attention.
4. Notably, Billboard Chris has been prophetic, having campaigned against this abuse as a relatively solitary voice well before it was in the mainstream, and he has been vindicated. The

[1] https://www.acon.org.au/about-acon/who-we-are/#wwa-our-slt
[2] This would be the 26th of March 2024 in Australian Time.

WPATH Files[3] and the Cass Review[4] have clearly exposed the impropriety of this treatment and England's National Health Service, among many others such as the health authorities in Sweden and Finland, have moved away from the catastrophic 'gender-affiming care' model, having conducted systematic reviews which show that children are not being helped by these treatments, and are instead suffering irreversible harm.

5. The eSafety Commissioner's response has been to attempt to ensure that these criticisms are kept from the Australian people.[5] Unsurprisingly, the actions of the Commissioner in this matter have become notorious worldwide, resulting in a 'Streisand Effect' which greatly magnified the censored post.[6] Arguably the Commissioner has succeeded in bringing Australia's reputation into serious disrepute.
6. The Commissioner's decision contains numerous legal errors. In summary, it is claimed that:
    a. **Ground 1**: The Commissioner failed to engage in a proper application of the relevant legislative provision, simply not meeting the definition of 'adult cyber-abuse targeted at an Australian Adult' in law. The result is that none of the three required criteria were met, namely (i) the post being specifically *targeted* against an Australian adult, (ii) the objectively likely *intention* of serious harm being caused to that adult's mental health, and (iii) that an ordinary reasonable person would find it 'menacing, harassing or offensive' in all the circumstances. Instead of being 'cyber-abuse material', it was a political statement about a public figure on matters of serious public concern.
    b. **Ground 2:** Even if somehow lawful within the terms of the Act, the basis in which the removal notice was issued is contrary to the implied freedom of political communication in the Constitution. The legislation must be read down accordingly.

---

[3] https://environmentalprogress.org/big-news/wpath-files
[4] https://cass.independent-review.uk/home/publications/final-report/
[5] The WPATH files were released on the 5th of March 2024, before the removal notice in question was issued by the Commissioner. The Cass report was released on the 10th of April 2024, which was after the notice, but the UK government had already taken the step of banning puberty blockers in England in anticipation of the outcome. It was certainly clear at the time of the removal notice which way the wind was blowing on this issue.
[6] By way of just some examples of the press coverage within Australia, this includes a segment on the Project, the Australian, coverage on news.com.au (https://www.news.com.au/technology/online/social/elon-musk-sues-esafety-commissioner-after-transgender-takedown-order/news-story/d5525155602b0ddf9d524aff35df7ff6), the Age (https://www.theage.com.au/technology/musk-s-x-to-fight-esafety-over-order-to-remove-harmful-post-20240403-p5fh4a.html) , the Star Observer (https://www.starobserver.com.au/news/international-news-news/elon-musks-x-to-sue-australias-esafety-commissioner-over-anti-trans-post/229742), the Daily Mail (e.g. https://www.dailymail.co.uk/news/article-13239427/X-eSafety-Commissioner-trans-Teddy-Cook.html and https://www.dailymail.co.uk/news/article-13243611/eSafety-Commissioner-Julie-Inman-Grant-trans-censorship-Elon-Musk.html), the Sydney Morning Herald (https://www.smh.com.au/technology/musk-s-x-to-fight-esafety-over-order-to-remove-harmful-post-20240403-p5fh4a.html) as well as widely distributed online commentary, such as: https://news.rebekahbarnett.com.au/p/spectacular-backfire-australian-governments. It is harder to find an outlet in Australia that didn't cover it. Then there is also the extensive international attention this has so far obtained.

c. **Ground 3:** The exercise of any discretion[7] was improper and unlawful, including by being in breach of relevant Commonwealth anti-discrimination laws.

7. The claim that Billboard Chris has engaged in creating and disseminating 'cyber-abuse material' is a grave allegation, made without any reference or notification to him, and is entirely misconceived. Given the serious connotations of that term, we argue that Billboard Chris is entitled to vindication. An oral hearing is requested of this review application, as well as the further directions set out in [30]-[34] below.

B. Ground 1: Misunderstanding and/or misapplication of the *Online Safety Act 2021* (Cth).

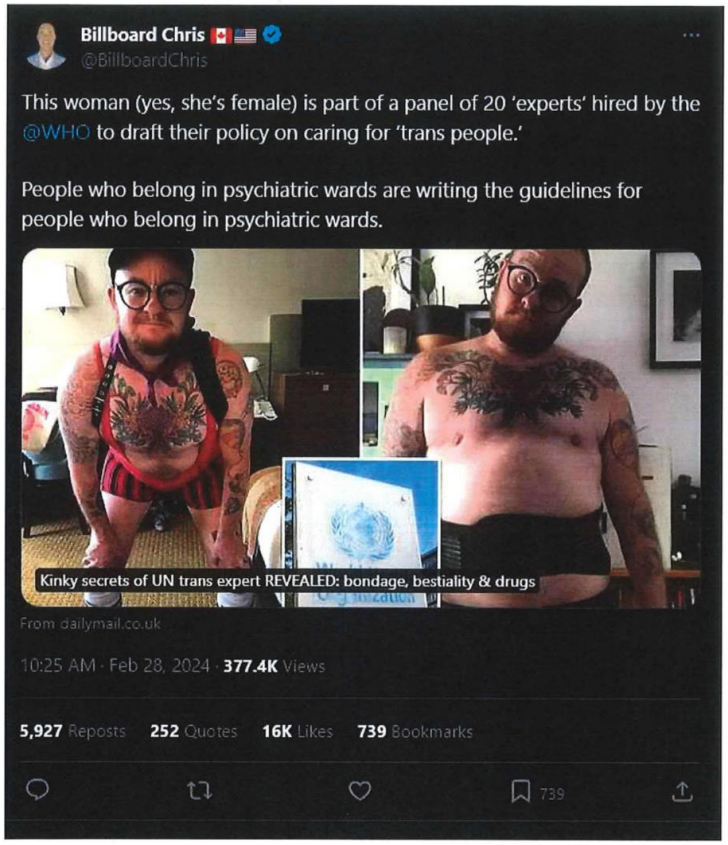
8. The analysis of the Commissioner overlooks the wording of the legislation.
9. As relevant, the law requires that to issue a notice under Section 88 of the Act in respect of a social media post[8] that **all** the following be satisfied.
    a. An *'ordinary reasonable person'* would (objectively) conclude the post was '*likely ... intended*' by Billboard Chris '*to have an effect of causing serious harm to a particular Australian adult'*, in this case Teddy Cook. For mental health, as claimed here, this must be either '*serious psychological harm*' or '*serious distress'*, but crucially '*does **not** include mere ordinary emotional reactions such as those of only distress, grief, fear or ange*r'.
    b. An '*ordinary reasonable person in the position of the Australian adult would regard the material as being, **in all the circumstances**, menacing, harassing or offensive'*. Again, this is an objective, not a subjective test. The words 'menacing' and 'harassing' should be taken to qualify and limit the word 'offensive', a point that has been overlooked by the Commissioner.[9]
    c. The person who complained (Teddy Cook) is 'the target of the material'.
10. It is contended that none of these criteria are met. Their specific substantive claims are:
    a. **Claim 1:** "the Material misgenders the Complainant and reiterates that this point is deliberate, which is likely intended to invalidate and mock the Complainant's gender identity."
    b. **Claim 2:** "The Material also contains a statement that implicitly equates transgender identity with a psychiatric condition. This statement is deliberately degrading and suggests that all transgender people - and in this case the complainant in particular - have something that is 'wrong' about their psychology owing to their gender identity;"

---

[7] It naturally being denied that the Commissioner had the power to issue any notice in respect of the tweet the to begin with, given its benign contents.
[8] Needless to say, it is accepted that the text was a social media post under the Act. The fact that part of it is taken directly from a Daily Mail article is nevertheless highly relevant to the other analysis that must be undertaken.
[9] *Monis v The Queen* (2013) 249 CLR 92 ('Monis') at [161], [305].

c. **Claim 3:** "the Material singles out the Complainant to personify the poster's contempt for transgender identity as well as equating transgender identity with a psychiatric condition."

11. The tweet in question is illustrated below.[10] It comprises what one presumes to be an *automatic* (computer generated) summary of a *Daily Mail* article, as well as the caption prepared by Billboard Chris above it (the white text above the image):



12. One should observe from the outset that the Commissioner simply fails to appreciate the context of the tweet, which was citing an article in the *Daily Mail* about Teddy Cook's unusual practices, including promoting bestiality. This is a failure to consider 'all the circumstances' as required. The Commissioner only considered the circumstances that Teddy Cook complained about, rather than taking a balanced and responsible approach.

13. In respect of the assertions of misgendering (**Claim 1**), the Commissioner:

a. Fails to recognize that Billboard Chris merely states a fact known about and widely publicized by the complainant in the public domain.[11]

---

[10] As provided in the Removal Notice.

[11] In respect of a similar claim about sexual orientation (which was already publicaly known) in the workplace, it was held by the UK Court of Appeal in *Grant v HM Land Registry* [2011] EWCA Civ 769 at [47] that a claim of being upset in these circumstances 'as subjecting the claimant to a "humiliating environment" when he heard of it some months later is a distortion of language which brings discrimination law into disrepute.' The same can be said in this case: the eSafety Commissioner has brought her office and the entire *Online Safety Act 2021* (Cth) into serious disrepute.

b. Overlooks that the comment is not 'targeted' at the complainant (Teddy Cook), but rather is a **political** analysis of the article. Billboard Chris simply stated his view that, among other issues exposed in the Daily Mail article, it is likely that people are suffering from psychiatric comorbidities when they promote bestiality (a crime in Australia), mutilation, bondage, and advise that trans-identified people have better sex while high on illicit drugs. It is his opinion that such individuals should not be appointed to positions of power within the World Health Organization, tasked with drafting healthcare policy for trans-identified people who are, according to all statistical data, often dealing with a variety of mental health comorbidities. If the Commissioner's approach is correct, then all 'misgendering' -- even as relevant political commentary stating *relevant* publicly available facts about a *high-profile* figure -- would presumably have to be deleted from social media. This would severely suppress valid public discussion on the misconduct of public officials.
c. Does not meet the test of being **objectively** likely to cause serious psychological harm as expressed in the legislation, especially given that Teddy Cook is a public figure, and Billboard Chris is merely stating a relevant, already widely-known fact in his political criticism.[12] It is clear that the 'intention' is to expose a matter of serious public concern to a wider audience, rather than to personally inflict serious psychological suffering on Teddy Cook. The objective 'ordinary reasonable' Australian would expect that high profile figures would be used to pungent criticism.
d. It is further contended that 'misgendering' in general does not reasonably meet the test. By contrast, Teddy Cook makes media appearances talking about their own circumstances. Indeed, the inflated vulnerability behind the Commissioner's views is demeaning of trans-identified people.
e. Overlooks that Billboard Chris's campaign is focused upon **protecting** vulnerable children -- including those who have suffered trauma, abuse, sexual abuse, and/or have co-existing mental health comorbidities -- from serious harm and abuse. This has been his sole mission for the past four years. The purpose of the post was not to misgender Teddy Cook, but to protect the safety of children from dangerous pseudoscience, as shown by the final Cass Report and the recently leaked WPATH Files.

---

[12] Noting that these viewpoints have been held internationally to be worthy of respect in a democratic society: *Forstater v CGD Europe & Ors* [2021] IRLR 706 at [115]. In that decision at [116], the Judge aptly observed that "just as the legal recognition of Civil Partnerships does not negate the right of a person to believe that marriage should only apply to heterosexual couples, becoming the acquired gender "for all purposes" … does not negate a person's right to believe … that as a matter of biology a trans person is still their natal sex. Both beliefs may well be profoundly offensive and even distressing to many others, but they are beliefs that are and must be tolerated in a pluralist society".

f. Conflates the well-deserved serious harm to Teddy Cook's reputation with the required serious psychological harm under the legislation.[13]

14. The claim on psychiatric conditions (**Claim 2**) from the Commissioner is similarly misconceived.
    a. In one sense, the claim is not directed at the complainant but is a general scientific observation: gender dysphoria is a psychiatric disorder, recognized as such in the Diagnostic and Statistical Manual of Mental Disorders (DSM-5), the medical handbook used by medical professionals across the world as the authoritative guide to the diagnosis of mental disorders.
    b. It is not generally pejorative to describe someone as having a psychiatric condition.[14]
    c. A statement that is 'implicit' cannot fit within the Act: the focus is on 'targeting' at a particular Australian Adult.
    d. At the worst, the claim concerning Teddy Cook (albeit via a picture, as opposed a name) specifically based on Teddy Cook's highly unusual conduct (including promoting bestiality), is a protected political insult and has at best a loose connection to any 'transgender identity'. The comment is purely in association with Teddy Cook's role in the WHO and the conduct of the WHO in making such an appointment.
15. In respect of 'targeting' (**Claim 3**), the fact that someone happens to be mentioned in material does not make them the 'target'. The post's text did not name the claimant: rather, it linked to a Daily Mail article that did and reused the images from that article. The purpose of the post was to comment on an article and the conduct described therein, not to specifically target Teddy Cook. Cook's role is somewhat tangential: the critique was about the WHO and their choice to appoint Teddy, given Teddy's conduct, and the serious risks it likely causes to vulnerable children. Billboard Chris plainly aimed to subject the WHO to justified criticism, rather than targeting Cook specifically.
16. The underlying claims are also misconceived, because they do not reflect the fact an 'ordinary reasonable person' would recognize we live in a democratic society. People who undertake high profile roles, let alone promote dangerous medical treatments, should be held accountable including in a caustic fashion. We refuse to accept that the view of the Commissioner remotely resembles that of an 'ordinary reasonable [Australian]'.
17. A genuine 'ordinary reasonable [Australian]' would not find the content offensive. They would see Billboard Chris's courageous conduct as being in the best tradition of a modern

[13] A defamation claim by Teddy Cook would fail, hence the attempt to use the eSafety Commissioner to collaterally circumvent the law.
[14] Indeed, at least one commentator on Twitter was most upset by this: https://twitter.com/OstinatoRigore4/status/1777685737980260359

liberal democracy.[15] The 'ordinary reasonable person' that the Commissioner used to construct the legislation is irrational and unreal, belonging more in Orwell's 1984, rather than the real world. The post subject to the removal notice is entirely different from those concerns expressed in the Minister's second reading speech, which was about concerns such as 'malicious actors [using] anonymous online accounts to abuse, bully or humiliate others', as well as the dissemination of intimate private images (or deep-fake porn) and the material shared out of the Christchurch mass-murder. The idea that the post amounts to 'cyber-abuse material' brings the whole concept into disrepute.

C. Ground 2: Implied Freedom of Political Communication.

18. The interpretation of the law plainly interferes with the implied right to political communication provided in the Constitution. This was a post about a political figure, commenting on publicly known facts about them.
19. The core test for this is found in *Lange* as modified by *Coleman v Power*.[16] It involves considering:
    a. Whether the requirement of 'freedom of political communication' is 'effectively burdened'?
    b. If so, is the 'purpose of the law and the means adopted to achieve that purpose legitimate'?
    c. If so, is the law 'reasonably appropriate and adapted to serve that legitimate end'?
20. It is difficult to dispute that the freedom of political communication has been heavily burdened on this occasion. Billboard Chris made a political statement on something important that is of legislative concern internationally and within Australia. The Commissioner ordered it to be removed and hidden from the Australian people, a decision that is in effect today, with its demeaning implication that the post was 'cyber-abuse material'.[17] The fact it might contain insults is of no moment: they are constitutionally protected as part of political discourse.[18] The implied freedom prohibits any 'restriction which substantially impairs the opportunity for the Australian people to form the necessary political judgments'. Censoring facts, no matter how exuberantly conveyed, must be incompatible.[19]

---

[15] The content of the press articles might also illustrate the view of ordinary reasonable Australians.
[16] *McCloy v New South Wales* (2005) 257 CLR 178 at [2].
[17] The reason we say notionally is because of what happened, namely an effort to redistribute it and its being reported across the press, with it having obtained far wider distribution than it otherwise might. Nevertheless, Billboard Chris is plainly entitled to the vindication of a finding from this Tribunal that he did not distribute 'cyber-abuse material'. The same point applies to those with similar views as Billboard Chris.
[18] *Coleman v Power* (2004) 220 CLR 1 at [105], [237]-[239]; *Monis* at [295], [300].
[19] *Monis* at [352]; *Nationwide News Pty Ltd v Wills* (1992) 177 CLR 1 at 50-51.

21. Causing offence is part and parcel of political communication.[20] Eliminating offence is not an acceptable legislative aim, rather the concept of offence should be narrowed to read in line with 'menacing and harassing' (the same words that appear in the present legislation).[21] One serious mistake in law is the Commissioner failed to apply the correct legal test of offensiveness: they ignored the 'menacing' and 'harassing' elements which provides a heavy qualification as to 'offence'.[22] What is more, given the 'nature of Australian political debate and communications, reasonable persons would accept that unreasonable, strident, hurtful and highly offensive communications fall within the range of what occurs in what is sometimes euphemistically termed "robust" debate'.[23] The truth is that the post is unquestionably within what is permitted within Australian society and thus must be permitted under any reasonable construction of the legislation.[24]
22. The resulting Streisand Effect also starkly illustrates how wholly inappropriate the decision was. It has arguably made the Commissioner (and her office) an international laughing stock and damaged Australia's global reputation. Together with the fact that the legislation in question does not seem to exist in any other country (it is apparently a 'world first'), there is more than enough to show it is not 'reasonably appropriate and adapted', nor is the end 'legitimate'. It simply cannot satisfy the *Lange* test, especially considering the tacit modifications made in *Coleman v Power*. The point is that political statements commenting upon already well-known information about prominent public figures should obviously be exempt from the legislation. One doubts that the legislature had even considered the possibility that it would be distorted in this way when they were enacting the legislation.
23. Even if this power could in the abstract be necessary, the type of power exercised in this case should never be exercised by an anonymous and unaccountable administrator cloaked in secrecy, let alone one within an office that is pursuing a particular political crusade against Free Speech. At the least, such decision-making should have been reserved for a judicial process.[25] This makes the law maladapted to any legitimate purpose and grossly disproportionate unless the wording is heavily read down and applies only to the clearest of circumstances.

---

[20] *Monis* at [209].
[21] *Monis* at [161], [220]-[222], [305].
[22] As a hypothetical, imagine instead of reporting on a newspaper article, someone stole *private* nude photos of Teddy Cook – which she had not published - and circulated them widely. That would fit the bill and be something the Commissioner could legitimately give a removal notice against under s 88 – it is objectively menacing and harassing, as well as being offensive to the relevant standard. But merely pointing out and perhaps even deriding an objective (and well-known) fact about a person, or their conduct, especially a politician is radically different to the true concern of the Act.
[23] *Monis* at [67].
[24] See also the quote from *Forstater* in note (12) above.
[25] We note that New Zealand's equivalent provision leaves the making of orders to the District Court: see the *Harmful Digital Communications Act 2015* (NZ).

24. What is so worrying about the process is that there was no effective mechanism for Billboard Chris to find out about the decision. He simply happened to be told by X. If he hadn't been told, how would he have found out about it? This is of serious concern and is in breach of the Commissioner's obligations to notify him of his review rights under s.27A of the *Administrative Appeals Tribunal Act 1975* (Cth).[26] We also note with concern the wider natural justice failings, especially that Billboard Chris was never consulted on the removal notice before it was issued.[27]
25. One imagines there might be many notices where there was no notification with review rights to the end user. If this had been done on a social media platform that was less supportive of Free Speech (or perhaps a staff member who was less on the ball at 'X', or a user who had a less prominent account), then it risks someone having their entire account (and thus platform) taken down without the person knowing why.[28] It is possible that the true purpose of the complaint -- or the removal notice -- was really to take down Billboard Chris's account, not just the post, by labelling the account as being one that publishes 'cyber-abuse'. Fortunately, this failed.

D. Ground 3: Abuse of Discretion

26. The *Online Safety Act 2021* (Cth) makes the issue of any removal notice discretionary, not obligatory. This is apparent from the word 'may' in Section 88 of the Act.
27. The exercise of any such power or discretion must be lawful, not for an improper purpose and not be in breach of Commonwealth anti-discrimination laws.
28. It is contended that this is an abuse of discretion because:
    a. The take-down order fails to respect the implied right of political communication, freedom of expression, or the fact that Australia is a democratic society. Put simply, the powers were used for an entirely different purpose to what nearly anyone would expect, including the legislature who enacted the *Online Safety Act 2021* (Cth).
    b. The exercise of discretion reflects a structural bias that amounts to direct and/or indirect discrimination based on Gender Identity or Sex prohibited under Section 26

[26] One strategy that is seemingly being used by the eSafety Commissioner is to issue 'informal' notices (https://www.theguardian.com/australia-news/2024/apr/09/trans-man-bullied-x-twitter-takedown-notice-hate-speech). Given the practical effect of them, they should be also being subject to the same notification and review requirements. This is a serious lacuna in the legislative scheme, which might best be described as an improper circumvention of the scheme by the Commissioner. Put simply, there is no such thing as an 'informal' notice under the Act.

[27] Given the test under s.88 of the *Online Safety Act 2021* (Cth) requires a consideration of 'all the circumstances' and Billboard Chris is plainly affected by the decision, this is perhaps especially worrying. It is unclear how an identification of 'all the circumstances' could have been done without having ever consulting him.

[28] Worse still, in Australia, there is no subject access request mechanism to find out what happened, unlike in Europe.

(Commonwealth programs) and s.105 (induced discrimination)[29] of the *Sex Discrimination Act 1984* (Cth)[30] against Billboard Chris and others.[31] This is alleged to be part of a pattern of discrimination against people with viewpoints critical of gender ideology. This also discriminates against trans-identified people who wish to transition, by undermining the scrutiny of the medical treatments they may endure if they undergo a substantive transition. Whether or not this is technically discrimination in law, it also imposes an inappropriate detriment to these people.[32]

c. The exercise of discretion reflects a structural bias that amounts to direct and/or indirect associative discrimination based on disability under s.29 (Commonwealth programs) and s.43 (induced discrimination[33]) the *Disability Discrimination Act 1992* (Cth) against Billboard Chris, and actual or associative disability against others. Billboard Chris is a prominent disability rights campaigner, including for people with autism, gender dysphoria and those who have been subject to medical malpractice (such as detransitioners).[34]

d. The potential implementation of this as a 'political favour' which has now been widely alleged in the media.[35]

29. In any event, the Tribunal remakes the decision *de novo*. The correct answer in this case is unassailable. The removal notice should be withdrawn and deprecated in the strongest terms by the Tribunal. Something like this should not be repeated.

---

[29] This is in relation to 'X' as a service: in other words, the Commissioner is attempting to induce X to unlawfully discriminate against Billboard Chris and others.

[30] Billboard Chris reserves his rights about any other action he may bring under anti-discrimination law. The point is that the principles of this area of law are relevant to these proceedings, rather than to launch free-standing claims.

[31] In respect of Billboard Chris, this is constrained to the restriction of the views he is allowed to publish to Australians on social media. We also understand that Australian adults with gender-critical or sex-based views are also not receiving the protection of the Commissioner, even when are being genuinely subject to 'adult cyber-abuse' under the law. This group of Australian adults would have a wider potential claim against the Commissioner.

[32] The precise legal approach to such cases will be clarified in *Tickle v Giggle*, a case currently proceeding in the Federal Court of Australia. We understand that the Australian Human Rights Commission contends there are more than two sexes for the purposes of the Act. The most natural legal approach would be to treat Billboard Chris as having an 'atheist' gender identity: he considers that gender identity is not a real concept.

[33] Again, this is attempted induction in respect of how 'X' might unlawfully mistreat Billboard Chris and others in the provision of services.

[34] As with the Gender Identity and Sex claims, the question of whether it is technically unlawful discrimination is not the full concern, but rather that the law – and especially anti-discrimination law aimed at protecting people with disabilities - is a guide to an appropriate use of discretion.

[35] By way of a couple of examples, consider https://www.rebelnews.com/calls_for_australia_s_esafety_commissioner_s_resignation_amid_claims_of_ties_to_trans_activist and https://news.rebekahbarnett.com.au/p/highly-disturbing-australian-government.

E. Other Matters

30. Until there is full disclosure, Billboard Chris reserves the right to add further claims or grounds. This case reflects a fast-moving situation, where the full information remains to be disclosed. The story has become increasingly unedifying on a daily basis.
31. The presumed personal involvement of the eSafety Commissioner herself and the widespread publicity would make it manifestly inappropriate for an internal review to be conducted.[36] The lack of clarity on the legal provision in question is also a compelling reason for this to be resolved by this Tribunal.
32. It is submitted that it is particularly unconscionable to falsely accuse a bona-fide child protection campaigner of producing and disseminating 'cyber-abuse material', let alone to do this using official power and in pursuit of highly dubious political purposes. Given this context, Billboard Chris is also entitled to vindication which can only be afforded by this Tribunal.
33. In addition to the usual disclosure[37], a declaration that the reasons were inadequate is also sought under Section 28(5) of the *Administrative Appeals Tribunal Act 1975* (Cth), so we can obtain further and better particulars from the Commissioner under Section 28(6).[38]
34. We look forward to a directions hearing in order to bring this important matter to trial. Given the nature of this case, we expect there will be a significant number of witnesses, as well as considerable disclosure required.

Free Speech Union of Australia

17th April 2024

[36] We note the small number of notices (a total of five over a two-year period) apparently given and the fact the eSafety Commissioner has worked with Teddy Cook. Given the volume of genuine cyber abuse material which must be regularly being reported to the Commissioner (such as stalking, doxxing and so forth), it is most surprising that this particular post was at the top of the office's priority list. This conveys an unfortunate impression as to the true purpose of the removal notice and its likely political character.

[37] Per Section 37 of the *Administrative Appeals Tribunal Act 1975* (Cth).

[38] It appears that there is a statement of reasons, just that it is inadequate, amounting to two substantive paragraphs of 'reasoning'. Accordingly, a request under s.28(1) of the Act would be inappropriate – we are working on the assumption that X already made some kind of request (and the Commissioner is aware of our criticisms having issued press statements responding to them), leading to the notice being expressed in that form. We also note that no appropriate steps were presumably taken by the Commissioner under s.27A of the Act to draw the matter to the attention of Billboard Chris. This is despite the fact his website is linked from his Twitter page and it has a contact email address on the front of it. He is not a difficult person to contact, nor to send notices to. Neither is he a hard person to identify: his approach is the opposite of anonymity.