



Your ref. Our ref. 25009365

10 November 2025

The Registrar
Administrative Review Tribunal

By email: reviews@art.gov.au, melbourne.registry@art.gov.au

Australian Government Solicitor
Level 10, 60 Martin Place Sydney NSW 2000
GPO Box 2727 Sydney NSW 2001
T 02 9581 7777
www.ags.gov.au

Canberra
Sydney
Melbourne
Brisbane
Perth
Adelaide
Hobart
Darwin

Reuben Kirkham
Free Speech Union of Australia Pty Ltd
190/18-20 Edinburgh Street
Oakleigh South VIC 3167

By email: reuben@freespeechunion.au

Dear Registrar and Mr Kirkham

**Free Speech Union of Australia Pty Ltd v eSafety Commissioner –
Administrative Review Tribunal 2025/5349 – application for dismissal**

1. We act for the eSafety **Commissioner** in the above application for review.
2. By that application, Free Speech Union of Australia Pty Ltd (**FSU**) purports to seek review of the **decision** of a delegate of the Commissioner dated 26 September 2025 to issue a removal notice to X Corp pursuant to s 109 of the *Online Safety Act 2021* (Cth) (**OS Act**) in respect of certain Class 1 material.

Application contesting standing

3. The Commissioner applies to have the application for review dismissed pursuant to s 101(1)(b) of the *Administrative Review Tribunal Act 2024* (Cth) (the **ART Act**).
4. The application has no reasonable prospects of success as the applicant does not have standing to make the application for review. This follows by a combination of s 220 of the OS Act, and ss 15 and 17 of the ART Act.
5. In circumstances in which the Commissioner has put the question of standing in issue and contends that the Tribunal should dismiss the application for review, the Commissioner does not consider the time for the giving of documents under s 23 of the ART Act has commenced to run.
6. To facilitate the fair, efficient and timely resolution of the Commissioner's application for dismissal, the Commissioner has prepared a bundle of documents. The bundle includes a statement of reasons in respect of the decision, which is being provided without prejudice to the Commissioner's position that the applicant does not have standing.
7. The bundle is provided as an enclosure to this letter.

8. We would be pleased to provide any further information to the Tribunal as it may require.

Directions

9. The Commissioner will work with the applicant to endeavour to agree proposed orders for the filing and exchange of submissions and evidence in relation to the Commissioner's application for dismissal.
10. We will then respectfully ask the Tribunal to list the matter for hearing to determine the Commissioner's application for dismissal.
11. In the event the parties are unable to agree proposed orders, we will apply to the Tribunal to list the matter for directions or, alternatively, raise the matter of timetabling at the case management directions hearing listed on 13 January 2026.

Yours sincerely

[Redacted signature block]