



**Written Submission of Reddit, Inc.
In Response to the Part A Model Defamation Amendment Provisions 2022**

Executive Summary

- Reddit supports the intention of the draft Part A Model Defamation Amendment Provisions 2022 to update and modernise defamation law in Australia, which has long been overdue.
- However, we are concerned by the lack of explicit protections for ordinary internet users who help create, grow and maintain online communities. There are alternatives to the centralised content moderation used by the biggest tech companies that rely on the input and volunteer efforts of ordinary internet users. These users' participation in the online community ecosystem should be encouraged and not unintentionally discouraged by unclear lines in the draft provisions regarding their potential liability.
- While we welcome the introduction of defences to defamation liability for digital intermediaries, including a safe harbour defence, we are concerned by the conditions on which the proposed defences are available. The complaints process proposed under both defences, and the alternative condition to access the safe harbour defence, would likely erode the anonymity and privacy of users, incentivise over-censorship of online speech, chill online discourse, and potentially be subject to abuse by bad actors.

I. Introduction

Reddit is pleased to offer this response to the consultation draft of Part A to the Model Defamation Amendment Provisions 2022 (draft MDAPs). Reddit, Inc. is a medium-sized, privately held company with around 1,500 employees worldwide. Headquartered in San Francisco, the company opened an Australian office in Sydney in July 2021. Reddit's platform serves more than 50 million daily active unique users worldwide, and Australia forms our fifth largest user base.

Reddit is built on communities, primarily created, governed and moderated by the users themselves on a volunteer basis. Reddit's unique community structure and democratic, participatory approach to content moderation, in which volunteer community moderators play an integral part, forms the basis of our views in this response.

A. Reddit's Community Structure and Approach to Content Moderation

Reddit's mission is to bring community, belonging, and empowerment to everyone in the world. Reddit provides a forum-like platform for people to create self-governing communities of shared interests, known as "subreddits". Every user (known as a "Redditor") can create and partake in discussions in their chosen subreddit, so long as they abide by Reddit's site-wide policies¹ and the rules of the subreddit. For example, the [r/Australia](https://www.reddit.com/r/australia)² subreddit requires that all posts "must contain content that is specifically about Australia or Australians."³

¹ See, for example, Reddit's Content Policy (<https://www.redditinc.com/policies/content-policy>),

² <https://www.reddit.com/r/australia>

³ <https://www.reddit.com/r/australia/about/rules>

These subreddit-level rules are created and enforced not by Reddit employees, but by volunteer users known as moderators or “mods”. Moderators are empowered to enforce their rules through both automated and manual means, such as removing a post or comment, or banning individual users from posting within the community. These moderator actions happen without the involvement of Reddit, Inc., and form the vast majority of content moderation decisions on the platform, as noted in our annual [Transparency Report](#).⁴ Volunteer community moderators are the core stewards of community culture on our site and essential to the healthy functioning of the over 100,000 active communities on Reddit.

Overarching these networks of subreddits and users is Reddit’s [Content Policy](#).⁵ The Content Policy is set by Reddit at the company level and applies across the entire site. It forbids unwelcome things such as hateful content, encouraging violence, sharing personal information or intimate imagery without consent, and other behaviour that has no place on Reddit. Reddit’s internal Safety Team enforces the site-wide Content Policy by responding to user reports and proactively seeking out bad behaviour. This team acts especially in instances that are beyond the scope of what can reasonably be expected of volunteer moderators, such as monitoring data signals for evidence of sophisticated commercial spammers.

Given the importance of volunteer community moderators to Reddit, we have included, within this submission, contributions from some of our Australian community moderators, as well as examples drawn explicitly from some of our Australia-specific subreddits. We hope that you will keep their points of view top of mind as you consider next steps for the draft MDAPs.

II. Reddit’s Feedback on the Draft MDAPs

Reddit welcomes the update to Australia’s uniform defamation legislation and supports the intention of the draft MDAPs to clarify defamation law in Australia, including intermediary liability protections. However, we have some concerns about the current proposals under consideration.

First, the draft provisions do not explicitly protect ordinary internet users who help create, grow and maintain online communities, such as volunteer community moderators. By neglecting to do so, the draft provisions fail to address the confusion created by the High Court’s decision in *Fairfax Media Publications Pty Ltd v Voller*; *Nationwide News Pty Limited v Voller*; *Australian News Channel Pty Ltd v Voller (Voller)*. This leaves ordinary users who simply have some role in organising online communities and facilitating discussions online as easy targets for defamation actions, creating an environment of uncertainty and anxiety for these users, who do not have the resources to fund expensive and protracted litigation. The failure to protect these users from liability based on third-party online speech will have a chilling effect on user participation online, to the detriment of online discourse in Australia and the entire online community ecosystem.

Second, while we welcome the introduction of defences to defamation liability for digital intermediaries, including a safe harbour defence, we are concerned by the conditions on which the proposed defences are available, and believe they may have the unintended consequences of eroding anonymity and privacy, and encouraging the unnecessary removal of online speech.

⁴ <https://www.redditinc.com/policies/transparency-report-2021-2/>

⁵ <https://www.redditinc.com/policies/content-policy>

A. Ordinary Internet Users Should be Protected against Defamation Liability

It is critical that the draft MDAPs explicitly identify and exempt ordinary internet users that create, maintain and help foster online communities from any liability under Australia’s uniform defamation legislation. The participation of these users in the online community ecosystem should be encouraged and not unintentionally discouraged by unclear lines in the draft MDAPs regarding their potential liability. On Reddit, these users are crucial to the continued success and health of thousands of communities, and form an integral part of our unique community moderation system.

Our community moderators play a vital role in facilitating important and robust online discourse. In the lead up to the Australian federal election earlier this year, the moderators of [r/AustralianPolitics](https://www.reddit.com/r/AustralianPolitics),⁶ and city-specific subreddits including [r/canberra](https://www.reddit.com/r/canberra),⁷ [r/perth](https://www.reddit.com/r/perth)⁸ and [r/brisbane](https://www.reddit.com/r/brisbane),⁹ helped facilitate town hall-style “Ask Me Anything” (“AMA” for short) discussions between users and a range of Australian political candidates, with users able to directly ask questions and raise issues of concern.¹⁰ Similarly, the moderators of r/Australia helped promote and facilitate an [AMA with the Australian Electoral Commission](https://www.reddit.com/r/australia/comments/u0vp0j/were_the_leaders_of_the_australian_electoral_commission),¹¹ with leaders of the Australian Electoral Commission answering users’ questions regarding the electoral process, to help dispel any misconceptions and ensure users were well-informed. In an era of widespread concerns regarding election integrity, this AMA acted as an important channel for Redditors to clarify their understanding and ask important questions.

Outside of encouraging online discourse, moderators are also essential to creating a sense of community and belonging among Redditors. There is a broad spectrum of topics and interests about which Australians seek community; some subreddits focus on shared interests, while others provide a space of support and assistance for those undergoing shared experiences. For instance, [r/babybumpsandbeyondau](https://www.reddit.com/r/babybumpsandbeyondau)¹² is a “safe place for Australian and New Zealander parents and parents to be [and] to discuss the ups and downs of creating a human life.” Moderators are key to the continued existence and health of these subreddits: for example, the rules of r/babybumpsandbeyondau (which are created and enforced by its moderators) specifically prohibit “shaming” and require users to “stay respectful and understanding”, establishing important parameters for a safe and respectful community for those seeking to share their experiences and support others who are having and raising children. This sense of community and belonging is invaluable to users and moderators alike, with one long-time Redditor stating:

I really enjoy my role as both a moderator and a user on Reddit. I’ve been on Reddit for more than a decade and honestly, this community keeps me going! I’ve recently become a dad to an adorable newborn but I’ve really made it a point to check in every day because this is where I can be myself and find the communities that give me energy, inspiration and help where I need it.

Unfortunately, the draft MDAPs fail to properly take account of the vital role of everyday users (including volunteer moderators on Reddit) in helping organise online communities, creating a sense of belonging and facilitating vibrant online discourse, and do not adequately protect such users from

⁶ <https://www.reddit.com/r/AustralianPolitics>

⁷ <https://www.reddit.com/r/canberra>

⁸ <https://www.reddit.com/r/perth>

⁹ <https://www.reddit.com/r/brisbane>

¹⁰ See, for example, an AMA held by Adam Bandt, Leader of the Australian Greens, on 4 May 2022 (https://www.reddit.com/r/AustralianPolitics/comments/uhx8e9/im_adam_bandt_leader_of_the_australian_greens_ama/).

¹¹ https://www.reddit.com/r/australia/comments/u0vp0j/were_the_leaders_of_the_australian_electoral/

¹² <https://www.reddit.com/r/babybumpsandbeyondau>

liability under defamation law. Specifically, the draft MDAPs fail to address the consequences of the *Voller* decision. As highlighted in our [submission to the Anti-Trolling Bill](#),¹³ Reddit’s Australian moderators were extremely worried about the impact of the *Voller* decision, with some Australian users resigning as moderators or closing their communities entirely. When recently asked about the *Voller* decision, one moderator stated:

As a long time moderator of a large Australian Politics subreddit, the Voller case made me question the risks of helping to provide a forum where our country’s representatives could be freely and openly discussed. Publicly exploring Community Values should not be a risky activity... Additionally, the ever present concern that we are missing something which may fall under the purview of these proposals has the potential to introduce unnecessary mental anguish into what should be an enjoyable and community building role.

The current wording of the draft MDAPs does not make any reference to these vital internet users that build and help online communities flourish. The lack of protections enshrined in legislation, combined with the *Voller* decision, will likely have a chilling impact on users’ volunteer participation, reducing the innumerable benefits that moderators have brought to communities and broader online discourse.

We encourage a reconsideration of the draft MDAPs to ensure that ordinary internet users, including those who participate in the creation and moderation of their online communities, are protected from defamation liability for third-party content. This could be through an exemption from defamation liability based on third-party digital matter under section 9 of the draft MDAPs. Alternatively, there could be a new section in the draft MDAPs that specifically protects these users from liability based on third-party digital content. Either of the options would provide the necessary assurance to our Australian moderators, as well as other users that occupy a similar role in online communities.

In addition, while we acknowledge the complexity that can often be involved in drafting such legislation, we also urge careful thought and consideration to how these groups of users are defined in the legislation. While “forum administrators” (as used in the Stage 2 Discussion Paper) may be a useful starting point, it is unlikely to be sufficiently broad to capture users operating across a wide range of different platforms.

B. Defences to Defamation Liability Should Not Be Conditional

We welcome the introduction of defences to liability for third-party publications involving internet intermediaries. In particular, a safe harbour regime would provide an important safeguard and ensure Australia’s defamation laws are in lockstep with those of other jurisdictions. However, we are concerned that the conditions by which both of the proposed defences in the draft MDAPs operate would result in the erosion of privacy and anonymity on Reddit, and consequently, the ability for users to properly engage in online discourse.

Reddit is a place for communities of all shapes, colours and sizes to thrive, and the ability for users to remain anonymous on Reddit allows them to meet, engage and exchange ideas in an authentic and meaningful way that may not necessarily be available offline. Reddit includes communities of users as diverse as people seeking support for emotionally traumatic experiences, those sharing honest criticism of their employers’ labour practices, and those trying to better understand government

¹³

https://consultations.ag.gov.au/legal-system/social-media-anti-trolling-bill/consultation/view_respondent?uuId=99528900

4

politics or policies. A core part of our mission is ensuring that each of these communities of users feels like they belong and are empowered.

The combination of anonymity and the multitude of communities on Reddit allows users to ask questions they might otherwise refrain from asking those around them, and tap into communities of people that they may not have ready access to. For example, in [r/sydney](https://www.reddit.com/r/sydney),¹⁴ a user sought advice on how best to deal with a difficult medical condition they had because of a lack of immediate assistance in their own social circle, stating: “my dad is pretty useless when it comes to health stuff...i don't speak to my mum. all my friends are my age and don't have any idea of what to do.”¹⁵ Recently, they posted an update, thanking the community for their advice: “thank you so much to everyone who took the time and energy to comment, i can't tell you how much it meant you were all willing to try and help me even though you didn't know me...based on the suggestions i got, i was able to switch GPs to a brilliant new GP somewhere else...i saw him today and now have a provisional diagnosis...i'm starting treatment - today!”¹⁶ Advice or support extends beyond one-off instances; there are whole communities dedicated to those who are going through shared experiences, such as [r/LGBTAustralia](https://www.reddit.com/r/LGBTAustralia),¹⁷ [r/transgenderau](https://www.reddit.com/r/transgenderau)¹⁸ and [r/AUfrugal](https://www.reddit.com/r/AUfrugal).

We take seriously the trust users put in us to protect their identities, and we believe our users have the right to control how much or how little information about themselves they choose to divulge. Our commitment to user privacy and data minimisation is discussed in detail in our [Privacy Policy](#).¹⁹ Accordingly, any changes to Australia’s uniform defamation law should not undermine these values, and erode anonymity, privacy and the safeguards that have been built to protect users and encourage robust online discourse. As one Australia moderator stated:

We need to remember the human. In political, social and cultural focussed communities like ours, the sheer nuance and individual nature of humans covers a wide spectrum. This means enforced policing of opinions or posting of articles that may possibly be considered defamatory would be an onerous task and would stifle free and open discussion. It's important to keep these discussions real.

Another Australian moderator commented:

As a volunteer moderator for eight years, I can say with some authority how important anonymity is to the communities I moderate, to stifle this wouldn't solve the issue of defamatory remarks online.

We are concerned that both defences under the draft MDAPs would incentivise over-censorship of online speech, chill online discourse, and potentially be subject to abuse by bad actors:

- The complaints notice process under both of the proposed defences will likely result in the excessive removal of content online, which could have severe consequences on the ability of communities to freely express themselves. Analysis of defamation law is complex and context-specific. Against this backdrop of complexity, to avail themselves of either of the

¹⁴ <https://www.reddit.com/r/sydney>

¹⁵ https://www.reddit.com/r/sydney/comments/u0yypj/rsydney_i_need_your_help_chronic_illness_for_3/

¹⁶ https://www.reddit.com/r/sydney/comments/wotnl7/rsydney_thank_you_for_your_help_i_have_a/

¹⁷ <https://www.reddit.com/r/LGBTAustralia>

¹⁸ <https://www.reddit.com/r/transgenderau>

¹⁹ <https://www.redditinc.com/policies/privacy-policy>

proposed defences, intermediaries are more likely to simply remove, or prevent access to, the material that is the subject of a complaints notice. The requirement to remove content, regardless of whether the content is actually defamatory or not, could result in the unnecessary censorship of content and tip the balance in favour of complainants who may not always be acting in good faith.

- The alternative condition to access the safe harbour defence (to provide the complainant with the poster's information, subject to the poster's consent) is equally problematic. Anonymity and privacy are fundamental to Reddit and the requirement that digital intermediaries provide this information, with the consent of the poster (which is doubtful, given that the complainant is seeking to bring a cause of defamation against the user), would confound users' expectations of privacy and undermine their ability to engage in authentic online dialogue. Moreover, it is easy to see how such a legal mechanism could be abused by bad faith complainants seeking a poster's information for ill means, such as a stalker or estranged spouse. In addition, users may be chilled from even speaking out on important matters of public concern – like an honest review of a local business – fearing that their information could be disclosed as a result of a defamation complaint.

We agree that internet intermediaries should have a defence to defamation liability for the speech of their users. However, that defence should not be conditioned on the disclosure of personal user information, or the removal of content upon receipt of a complaints notice without a judicial determination that the content was, in fact, defamatory. Neither would represent a real defence for an internet intermediary that values privacy and free and open online discourse.

III. Conclusion

We applaud the efforts to update Australia's uniform defamation law. In particular, we welcome the introduction of a safe harbour for digital intermediaries, which will help protect websites and platforms on which important discourse lives.

However, we have serious concerns regarding the conditions on which the proposed defences for digital intermediaries are made available and the risks to vibrant online discourse, safety and privacy they pose. We are also troubled by the fact that the proposed changes to Australia's defamation law do not directly address the challenges facing ordinary internet users that build and maintain online communities, including volunteer community moderators, or recognise the vital role they play in maintaining healthy online community ecosystems.

We hope that the Meeting of Attorneys-General revise the draft MDAPs to address these concerns. It is imperative that the utmost care is taken in drafting any changes to the law to ensure that the objectives of the Model Defamation Provisions are achieved, without unintentionally stifling speech and damaging online communities. Please feel free to contact us if you have any questions about our submission or would like to discuss our concerns.