MEDIA RELEASE

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REVIEW OF DIGITAL ASSETS AFTER DEATH LAWS

The NSW Law Reform Commission will examine laws that affect access to a person’s social media accounts and other digital assets after they die or become incapacitated, Attorney General Mark Speakman announced today.

“In today’s hyper-connected world, an unprecedented amount of work and socialising occurs online, yet few of us consider what happens to our digital assets once we’re gone or are no longer able to make decisions,” Mr Speakman said.

“This is leading to confusion and complexity as family, friends and lawyers are left to untangle digital asset ownership issues, applying laws that were developed long before the arrival of email, blogs, social media and cryptocurrency.”

The Law Reform Commission will explore whether NSW needs legislation to regulate who can access the digital assets of a person who has died or is incapacitated.

“When a loved one passes away, bureaucratic hurdles and legal uncertainty are the last thing families and friends feel like confronting, so we need clear and fair laws to deal with these 21st Century problems.”

The review will consider relevant NSW, Commonwealth and international laws, including those relating to intellectual property, privacy, contract, crime, estate administration, wills, succession and assisted-decision making. It will also scrutinise the policies and terms of service agreements of social media companies and other digital service providers.

“Some social networking sites allow for an account to be memorialised or handed over to an administrator after death, while others simply close the account,” Mr Speakman said.

“The Law Reform Commission will also look at whether additional privacy protections are needed in situations where a person hasn’t made arrangements for anyone to take control of their social media or access their private emails.”

Mr Speakman encouraged the legal profession and other stakeholders to make submissions to the Commission.

“The issue of ownership of digital assets upon death cuts across many different areas of law, so diverse contributions from all parts of the community, including the legal profession, will be highly beneficial to the review,” Mr Speakman said.

To make a submission, visit www.lawreform.justice.nsw.gov.au

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