



16 April 2024

Meta Platforms, Inc.

Submitted via Meta's Official Request Portal at:
s 47G(1)(a)

Our Reference: CYR-0511344

Removal notice requiring you to remove class 1 material from your service

(Under section 109 of the *Online Safety Act 2021* (Cth))

I am a delegate of the eSafety Commissioner (**eSafety**) for the purposes of section 109 of the *Online Safety Act 2021* (Cth) (**the Act**).

Please see enclosed a removal notice given to you under section 109 of the Act (**the Notice**). The Notice requires you to take all reasonable steps to ensure the removal of the specified class 1 material from your service within 24 hours after being given the Notice.

Background

On 15 April 2024, eSafety became aware of class 1 material, specifically material that depicts matters of crime, cruelty and real violence in such a way that it offends against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that it is likely to be classified as RC (Refused Classification) by the Classification Board under the *Classification (Publications, Films and Computer Games) Act 1995* (Cth) which is available on your service (**the Material**).

On 16 April 2024, eSafety sent an informal request via Meta's Official Request Portal at s 47G(1)(a) requesting removal of the Material under your terms of service policy. No response was received, and the Material remains available on your service at the time of giving you the Notice.

The decision to give you the Notice

The Material is described in **Attachment A** to the Notice.

I am satisfied that:

- a. the Material is provided on your service, which is a Social Media Service within the meaning of section 13 of the Act
- b. the Material is or was class 1 material within the meaning of section 106 of the Act
- c. the Material can be accessed by end-users in Australia, and
- d. the Material on your service is not an exempt service under section 109 (1)(d) of the Act.

On this basis, I have decided to give you the Notice.

Required action

The Notice requires you to remove **all instances** of the class 1 material specified in the Attachment A to the Notice. Please note that the URLs included in Attachment A have been provided to assist you to locate certain instances of the specified class 1 material. However, there may be further instances of the same class 1 material being accessible at other URLs on your service. You are required to take reasonable steps to remove all instances of the specified class 1 material and not only the material that appears at the URLs provided.

Please email requests@esafety.gov.au once you have removed the Material in compliance with the Notice.

If you have any questions about the Notice, or if you require a longer period of time to comply, contact our office by email to requests@esafety.gov.au as soon as you receive this Notice.

Failure to comply

Under section 111 of the Act, you must comply with a requirement under a removal notice given under section 109 of the Act to the extent that you are capable of doing so.

Failure to comply with the Notice may result in enforcement action, including the commencement of civil penalty proceedings for a civil penalty order of up to a maximum penalty of \$782,500 (AUD) for a single contravention by a body corporate.

Review rights

You have a right to seek an internal or external review of the decision to give you a removal notice.

An internal review is a review conducted by the eSafety Commissioner under the Internal Review Scheme. There is no fee associated with a request for an internal review.

An external review is a review conducted by the Administrative Appeals Tribunal (**AAT**). The enclosed information sheet sets out your rights regarding the different review options available to you, as well as other options if you do not agree that the Notice should have been given to you.

Please note that you are required to comply with the Notice even if you have made an application for internal or external review, unless you receive notice that the eSafety Commissioner or the AAT has decided otherwise.

Manager, Illegal and Restricted Content Delegate of the eSafety Commissioner

Attachments: Notice under section 109 of the Act
Information Sheet

**REMOVAL NOTICE RELATING TO CLASS 1 MATERIAL GIVEN TO THE PROVIDER OF
A SOCIAL MEDIA SERVICE.**

Under section 109 of the *Online Safety Act 2021* (Cth)

To: Meta Platforms, Inc.

Submitted via Meta's Official Request Portal at:

s 47G(1)(a)

I am a delegate of the eSafety Commissioner for the purposes of section 109 of the *Online Safety Act 2021* (Cth) (**the Act**).

This removal notice is given to you under section 109 of the Act and requires you to take all reasonable steps to ensure the removal of the class 1 material specified in **Attachment A**.

You are required to comply within 24 hours of being given this notice, or within such longer period as I allow if contacted by you with a request for an extension.

Section 111 of the Act provides that a person must comply with a requirement under a removal notice given under section 109 of the Act to the extent the person is capable of doing so.

Failure to comply with a removal notice may result in enforcement action, including the commencement of civil penalty proceedings for a civil penalty order of up to a maximum penalty of \$782,500 (AUD) for a single contravention by a body corporate.

Date: 16 April 2024

**Manager, Illegal and Restricted Content
Delegate of the eSafety Commissioner**

ATTACHMENT A

Service on which the material is provided:	Facebook
Location of material:	https://www.facebook.com/100036164115906/videos/825442716172131/
Description of material:	<p>The content includes video footage of a male priest inside a church standing on a pulpit facing towards the camera. The priest is heard speaking in a non-English language (Arabic). From this point, a person (the attacker) appears in front of the camera dressed in a dark coloured jumper and approaches the priest to the left of screen. When the attacker is near the priest, they raise their right arm and lunge, bringing their right hand down and into contact with priest. The attacker appears to be holding a pointed object (a knife) in their right hand. The attacker is seen to strike the priest with the knife several times and the priest falls backwards. Screams can be heard coming from other people inside the church. The video cuts to a bald male, wearing a black tank top and silver necklace speaking to the camera.</p> <p>The content is class 1 material under the <i>Online Safety Act 2021</i> (Cth), for depicting matters of crime, cruelty and real violence in such a way that it offends against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that it would likely be classified RC.</p>

Information sheet: Right of Review

Internal review by the eSafety Commissioner

You have a right to seek an internal review of this decision under the Internal Review Scheme. An internal review is an impartial review of the merits of a decision. The purpose of an internal review is to consider whether the original decision made was the correct one.

You must make an application for an internal review **within 30 days** of receiving the notice of this decision. If you are unable to make your application within 30 days, please email internalreview@esafety.gov.au.

There are no fees associated with an application for internal review.

To request an internal review, you will need to download and complete the **Request for internal review form** available on eSafety's website: www.esafety.gov.au/about-us/corporate-documents/internal-review.

Please fill the form out and email it or post a hard copy to eSafety.

Email: internalreview@esafety.gov.au
Post: **Attention:** Internal Review

eSafety Commissioner
PO Box Q500
Queen Victoria Building
NSW 1230

For additional information on eSafety's Internal Review Scheme, including the **eSafety Internal Review Procedure** and the **Online Safety (Internal Review Scheme) Instrument 2022**, please visit eSafety's website: www.esafety.gov.au/about-us/corporate-documents/internal-review.

External review by the Administrative Appeals Tribunal

You have a right to seek review of this decision by the Administrative Appeals Tribunal (AAT). You can also request that the AAT review a decision that has been made under the Internal Review Scheme.

It is recommended that you seek an internal review prior to seeking a review by the AAT however, there is no requirement to do so. You can choose to apply directly to the AAT. The AAT is an independent body that can, among other things:

- confirm the eSafety Commissioner's decision
- vary the eSafety Commissioner's decision; or
- set the eSafety Commissioner's decision aside and replace it with its own decision.

You must apply to the AAT for review in writing. The AAT has a form available on its website which you can use.

Applications for review should be made **within 28 days** of being told about the decision. You must enclose the application fee with your application. If you want to apply for the application fee to be waived, you can obtain the application form for this from the AAT.

The AAT website (www.aat.gov.au) has more information. If you have any questions about the AAT's procedures and requirements, please contact the AAT. Information about how to contact the AAT is available at www.aat.gov.au/contact-us.

Requesting a statement of reasons for decision

If we have not provided the reasons for this decision, you may request a statement of reasons under section 28 of the *Administrative Appeals Tribunal Act 1975* (Cth). Your request needs to be made in writing **within 28 days** of being told of this decision. To request a statement of reasons, please email internalreview@esafety.gov.au.

Access to documents

You have a right to seek access to documents held by the eSafety Commissioner under the *Freedom of Information Act 1982* (FOI Act).

You must apply to the eSafety Commissioner in writing through one of the following options:

Online: Using the **Contact Us** form on the eSafety Commissioner's website

Post: **Attention:** The FOI Coordinator
eSafety Commissioner
PO Box Q500
Queen Victoria Building
NSW 1230

Email: enquiries@esafety.gov.au

When you make your application, you should:

- state that the request is an application for the purpose of the FOI Act;
- provide information about each document to which you are seeking access to enable us to process your request, and
- provide a postal, email or fax address for us to reply to and which we can use to communicate with you about your application.

The eSafety Commissioner's website has more information on how to make an FOI application: www.eSafety.gov.au/about-us-corporate-documents/freedom-of-information

Complaints

If you are dissatisfied with the way that the eSafety Commissioner has handled this matter, we ask that you contact us using the **Contact Us** form on the eSafety Commissioner's website so that we can try to help resolve any issues.

If you are still dissatisfied, you may make a complaint to the Commonwealth Ombudsman. The Ombudsman usually prefers that your concerns are raised with the eSafety Commissioner first.

There is a Commonwealth Ombudsman office in each capital city. Further information may be obtained at www.ombudsman.gov.au.

Judicial Review

Applications for review of decisions may also be made under the *Administrative Decisions (Judicial Review) Act 1977* (Cth) in certain circumstances. More information is available at: www.fcfcoa.gov.au/gfl/administrative-adjr.



4 July 2024

Meta Platforms, Inc.

1601 Willow Road,

Menlo Park, CA 94025.

Attention: Legal Department

Via webform at s 47G(1)(a)

Our Reference:

s 47E(d), s 47F

Removal notice requiring you to remove cyber-bullying material targeted at an Australian child from your service

(Under section 65 of the *Online Safety Act 2021* (Cth))

I am a delegate of the eSafety Commissioner for the purposes of section 65 of the *Online Safety Act 2021* (Cth) (**the Act**).

Please see enclosed a removal notice given to you under section 65 of the Act (**Notice**). The Notice requires you to remove the material from your service within 24 hours of being given the Notice.

Background

On 29 May 2024, the eSafety Commissioner received a complaint under section 30(2) of the Act (**the Complaint**) about cyber-bullying material targeted at an Australian child that is available on a service that you provide (**the Material**).

The Material consists of two videos uploaded to Instagram on 30 April 2024 and 1 May 2024 by Instagram account s 47F.

On 29 May 2024, the eSafety Commissioner submitted, through Meta's official request portal, a request to review the Material for removal (eSafety reference NOT-2024-00651 and Meta reference C#6446115). The Material remains available on the service as at the date of this Notice.

The Cyber-bullying material

The Material is available at:

<https://www.instagram.com/p/C6aNopMheZ2/> (Post 1)

<https://www.instagram.com/p/C6Xag5EhKxM/> (Post 2)

The decision to give you this removal notice

Taking into account all of the circumstances, I have reached the view that an ordinary reasonable person would conclude that:

- a) the Material was intended to have an effect on a particular Australian child; and
- b) the Material would be likely to have the effect of seriously threatening, seriously intimidating, seriously humiliating and seriously harassing the particular Australian child.

In reaching this view, I have considered:

- a) the intention of the Material to have an effect on the Australian child is demonstrated by the fact that the Material clearly identifies the Australian child and labels them a s 47E(d), s 47F.
- b) the Material would be likely to have the effect on the Australian child of being seriously threatening as it contains comments which are likely intended to incite targeting of the child, which may involve physical confrontations. Further, the comments directly imply that persons may, or should, attend that child's home address to cause harm to the child. Additionally, the widespread dissemination of the Material online exposes the Australian child to a greater threatening effect than if the Material was not spread widely.
- c) the Material would be likely to have the effect on the Australian child of being seriously intimidating as it contains comments which are likely intended to incite targeting of the child, which may involve physical confrontations. Further, the comments directly imply that persons may, or should, attend that child's home address to cause harm to the child. Additionally, the widespread dissemination of the Material online exposes the Australian child to a greater threatening effect than if the Material was not spread widely.
- d) the Material would be likely to have the effect on the Australian child of being seriously harassing as it contains persistent attacks on the child's character, and has been posted on Instagram in the context of similar posts on other social media services.
- e) the Material would be likely to have the effect on the Australian child of being seriously humiliating as it includes video footage within which a person identifies the child, s 47E(d), s 47F

[REDACTED]. The Material, therefore, is likely to humiliate the child by reducing the child's social status and wellbeing, and making him feel embarrassed and/or ashamed.

As such, I am satisfied that:

- a) the Material is provided on your service, Instagram, which is a social media service in accordance with section 13 of the Act;
- b) the Material was the subject of a complaint that was made to you, the provider of the service;

- c) the Material was not removed from your service within 48 hours after the complaint was made, or within a longer period that was allowed by the eSafety Commissioner;
- d) a complaint has been made to the eSafety Commissioner under section 30(2) of the Act about the Material; and
- e) the Material is cyber-bullying material targeted at an Australian child within the meaning of the Act.

On this basis, I have decided to give you the Notice.

Required action

Please email requests@esafety.gov.au once you have removed the Material in compliance with the Notice.

If you have any questions about the Notice or if you require a longer period of time to comply, contact our office by email to requests@esafety.gov.au as soon as you receive this Notice.

Failure to comply

Under section 67 of the Act, you must comply with a requirement under a removal notice given under section 65 of the Act to the extent that you are capable of doing so.

Failure to comply with the Notice may result in enforcement action, including the commencement of civil penalty proceedings for a civil penalty order of up to a maximum penalty of \$782,500 (AUD) for a single contravention.

Review rights

You have a right to seek an internal or external review of the decision to give you a removal notice.

An internal review is a review conducted by the eSafety Commissioner under the Internal Review Scheme. There is no fee associated with a request for an internal review.

An external review is a review conducted by the Administrative Appeals Tribunal (**AAT**). The enclosed information sheet sets out your rights regarding the different review options available to you, as well as other options if you do not agree that the Notice should have been given to you.

Please note that you are required to comply with the Notice even if you have made an application for internal or external review, unless you receive notice that the eSafety Commissioner or the AAT has decided otherwise.



SIGNATURE

s 22

**A/Manager, Cyberbullying
Delegate of the eSafety Commissioner**

Enclosed: Notice under section 65 of the Act

Information Sheet

REMOVAL NOTICE TO REMOVE CYBER-BULLYING MATERIAL FROM YOUR SERVICE

(Under section 65 of the *Online Safety Act 2021* (Cth))

To:

Meta Platforms, Inc.

1601 Willow Road,

Menlo Park, CA 94025.

Attention: Legal Department

Via webform at **S 47G(1)(a)**

I am a delegate of the eSafety Commissioner for the purposes of section 65 of the *Online Safety Act 2021* (Cth) (**the Act**).

This removal notice is given to you under section 65 of the Act and requires you to remove the Material from your service specified in **Schedule A**.

You are required to comply with this requirement within 24 hours of being given this notice, or within such longer period as I allow if contacted by you with a request for an extension.

Section 67 of the Act provides that a person must comply with a requirement under a removal notice given under section 65 of the Act to the extent that the person is capable of doing so.

Failure to comply with the notice may result in enforcement action, including the commencement of civil penalty proceedings for a civil penalty order of up to a maximum penalty of \$782,500 (AUD) for a single contravention.

Date: 4 July 2024

s 22

SIGNATURE

A/Manager, Cyberbullying
Delegate of the eSafety Commissioner

Schedule A – The Material for removal

<https://www.instagram.com/p/C6aNopMheZ2/> (Post 1)

<https://www.instagram.com/p/C6Xag5EhKxM/> (Post 2)

Information sheet: Right of Review

Internal review by the eSafety Commissioner

You have a right to seek an internal review of this decision under the Internal Review Scheme. An internal review is an impartial review of the merits of a decision. The purpose of an internal review is to consider whether the original decision made was the correct one.

You must make an application for an internal review **within 30 days** of receiving the notice of this decision. If you are unable to make your application within 30 days, please email internalreview@esafety.gov.au.

There are no fees associated with an application for internal review.

To request an internal review, you will need to download and complete the **Request for internal review form** available on eSafety's website: www.esafety.gov.au/about-us/corporate-documents/internal-review.

Please fill the form out and email it or post a hard copy to eSafety.

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External review by the Administrative Appeals Tribunal

You have a right to seek review of this decision by the Administrative Appeals Tribunal (AAT). You can also request that the AAT review a decision that has been made under the Internal Review Scheme.

It is recommended that you seek an internal review prior to seeking a review by the AAT however, there is no requirement to do so. You can choose to apply directly to the AAT. The AAT is an independent body that can, among other things:

- confirm the eSafety Commissioner's decision
- vary the eSafety Commissioner's decision; or
- set the eSafety Commissioner's decision aside and replace it with its own decision.

You must apply to the AAT for review in writing. The AAT has a form available on its website which you can use.

Applications for review should be made **within 28 days** of being told about the decision. You must enclose the application fee with your application. If you want to apply for the application fee to be waived, you can obtain the application form for this from the AAT.

The AAT website (www.aat.gov.au) has more information. If you have any questions about the AAT's procedures and requirements, please contact the AAT. Information about how to contact the AAT is available at www.aat.gov.au/contact-us.

Requesting a statement of reasons for decision

If we have not provided the reasons for this decision, you may request a statement of reasons under section 28 of the *Administrative Appeals Tribunal Act 1975* (Cth). Your request needs to be made in writing **within 28 days** of being told of this decision. To request a statement of reasons, please email internalreview@esafety.gov.au.

Access to documents

You have a right to seek access to documents held by the eSafety Commissioner under the *Freedom of Information Act 1982* (**FOI Act**).

You must apply to the eSafety Commissioner in writing through one of the following options:

- | | |
|---------|---|
| Online: | using the Contact Us form on the eSafety Commissioner's website |
| Post: | Attention: The FOI Coordinator
eSafety Commissioner
PO Box Q500
Queen Victoria Building
NSW 1230 |
| Email: | enquiries@esafety.gov.au |

When you make your application, you should:

- state that the request is an application for the purpose of the FOI Act;
- provide information about each document to which you are seeking access to enable us to process your request, and
- provide a postal, email or fax address for us to reply to and which we can use to communicate with you about your application.

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Complaints

If you are dissatisfied with the way that the eSafety Commissioner has handled this matter, we ask that you contact us using the **Contact Us** form on the eSafety Commissioner's website so that we can try to help resolve any issues.



If you are still dissatisfied, you may make a complaint to the Commonwealth Ombudsman. The Ombudsman usually prefers that your concerns are raised with the eSafety Commissioner first.

There is a Commonwealth Ombudsman office in each capital city. Further information may be obtained at www.ombudsman.gov.au.

Judicial Review

Applications for review of decisions may also be made under the *Administrative Decisions (Judicial Review) Act 1977* (Cth) in certain circumstances. More information is available at: www.fcfsa.gov.au/qfl/administrative-adjr.



4 July 2022

Meta Platforms, Inc.

1601 Willow Road,

Menlo Park, CA 94025.

Attention: Legal Department

Via webform at s 47G(1)(a)

Our Reference:

s 47E(d), s 47F

Removal notice requiring you to remove cyber-bullying material targeted at an Australian child from your service

(Under section 65 of the *Online Safety Act 2021* (Cth))

I am a delegate of the eSafety Commissioner for the purposes of section 65 of the *Online Safety Act 2021* (Cth) (**the Act**).

Please see enclosed a removal notice given to you under section 65 of the Act (**Notice**). The Notice requires you to remove the material from your service within 24 hours of being given the Notice.

Background

On 2 July 2024, the eSafety Commissioner received a complaint under section 30(1) of the Act (**the Complaint**) about cyber-bullying material targeted at an Australian child that is available on a service that you provide (**the Material**).

The Material consists of a video uploaded to Instagram on 7 June 2024, and a post with a series of stills from the same video, uploaded on 6 June 2024, by Instagram account s 47F

On 7 June 2024, the eSafety Commissioner submitted, through Meta's official request portal, a request to review the Material for possible removal (eSafety reference NOT-2024-00705 and Meta reference C#6578080). Despite correspondence from Meta on 8, 11 and 13 June 2024 confirming that the Material had been removed, the Material remains available on the service as at the date of this Notice.

The Cyber-bullying material

The Material is available at:

<https://www.instagram.com/p/C72gk2YSHG9/?igsh=dmk1ZTY1NmJjZ204> (Post 1)

<https://www.instagram.com/p/C75gMtTP2FV/> (Post 2)

The decision to give you this removal notice

Taking into account all of the circumstances, I have reached the view that an ordinary reasonable person would conclude that:

- a) the Material would be likely to have an effect on a particular Australian child; and
- b) the Material would be likely to have the effect of seriously harassing and seriously humiliating the particular Australian child.

In reaching this view, I have considered:

- a) the intention of the Material to have an effect on the Australian child is demonstrated by how the Material depicts a person purposefully pursuing the child in public and labelling the child a s 47E(d), s 47F. This intention is further demonstrated by how the person has captioned Post 1 s 47E(d), s 47F.
- b) The Material would be likely to have the effect on the Australian child of being seriously harassing as it contains persistent attacks on the child's character, and has been posted on Instagram in the context of similar posts on other social media services.
- c) the Material would be likely to have the effect on the Australian child of being seriously humiliating as it includes video footage, and still images from video footage, depicting a person purposefully pursuing the child in public and labelling the child a s 47E(d), s 47F. Further, this video footage depicts the s 47E(d), s 47F. The Material, therefore, is likely to humiliate the child by reducing the child's social status and wellbeing, and making him feel embarrassed and/or ashamed.

As such, I am satisfied that:

- a) the Material is provided on your service, Instagram, which is a social media service in accordance with section 13 of the Act;
- b) the Material was the subject of a complaint that was made to you, the provider of the service;
- c) the Material was not removed from your service within 48 hours after the complaint was made, or within a longer period that was allowed by the eSafety Commissioner;
- d) a complaint has been made to the eSafety Commissioner under section 30(1) of the Act about the Material; and
- e) the Material is cyber-bullying material targeted at an Australian child within the meaning of the Act.

On this basis, I have decided to give you the Notice.

Required action

Please email requests@esafety.gov.au once you have removed the Material in compliance with the Notice.

If you have any questions about the Notice or if you require a longer period of time to comply, contact our office by email to requests@esafety.gov.au as soon as you receive this Notice.

Failure to comply

Under section 67 of the Act, you must comply with a requirement under a removal notice given under section 65 of the Act to the extent that you are capable of doing so.

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SIGNATURE



s 22

**A/Manager, Cyberbullying
Delegate of the eSafety Commissioner**

Enclosed: Notice under section 65 of the Act

Information sheet: Right of Review

REMOVAL NOTICE TO REMOVE CYBER-BULLYING MATERIAL FROM YOUR SERVICE

(Under section 65 of the *Online Safety Act 2021* (Cth))

To:

Meta Platforms, Inc.

1601 Willow Road,

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Date: 4 July 2024

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**A/Manager, Cyberbullying
Delegate of the eSafety Commissioner**

Schedule A – The Material for removal

<https://www.instagram.com/p/C72gk2YSHG9/?igsh=dmk1ZTY1NmJjZ204> (Post 1)

<https://www.instagram.com/p/C75gMtTP2FV/> (Post 2)

Information sheet: Right of Review

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Email: internalreview@esafety.gov.au

Post: **Attention:** Internal Review

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PO Box Q500
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You must apply to the eSafety Commissioner in writing through one of the following options:

- | | |
|---------|---|
| Online: | using the Contact Us form on the eSafety Commissioner's website |
| Post: | Attention: The FOI Coordinator
eSafety Commissioner
PO Box Q500
Queen Victoria Building
NSW 1230 |
| Email: | enquiries@esafety.gov.au |

When you make your application, you should:

- state that the request is an application for the purpose of the FOI Act;
- provide information about each document to which you are seeking access to enable us to process your request, and
- provide a postal, email or fax address for us to reply to and which we can use to communicate with you about your application.

The eSafety Commissioner's website has more information on how to make an FOI application: www.eSafety.gov.au/about-us-corporate-documents/freedom-of-information

Complaints

If you are dissatisfied with the way that the eSafety Commissioner has handled this matter, we ask that you contact us using the **Contact Us** form on the eSafety Commissioner's website so that we can try to help resolve any issues.

If you are still dissatisfied, you may make a complaint to the Commonwealth Ombudsman. The Ombudsman usually prefers that your concerns are raised with the eSafety Commissioner first.

There is a Commonwealth Ombudsman office in each capital city. Further information may be obtained at www.ombudsman.gov.au.

Judicial Review

Applications for review of decisions may also be made under the *Administrative Decisions (Judicial Review) Act 1977* (Cth) in certain circumstances. More information is available at: www.fcfsa.gov.au/gfl/administrative-adjr.



15 November 2024

Meta Platforms, Inc.

1 Meta Way
Menlo Park, CA 94025

Submitted via Meta's Law Enforcement Online Request System

Our Reference: CYR-0573800

Removal notice requiring you to remove class 1 material from your service

(Under section 109 of the *Online Safety Act 2021* (Cth))

I am a delegate of the eSafety Commissioner for the purposes of section 109 of the *Online Safety Act 2021* (Cth) (**the Act**).

Please see enclosed a removal notice given to you under section 109 of the Act (**the Notice**). The Notice requires you to take all reasonable steps to ensure the removal of Class 1 material from your service within 24 hours after being given the Notice.

The decision to give you the Notice

On 29 October 2024, the eSafety Commissioner became aware of three films on your service, all of which depict gratuitous and exploitative footage of deceased police officers related to the Eastern Freeway truck crash that occurred in Victoria, Australia on 22 April 2020 (together, **the Material**).

Whilst all three films depict substantially the same content, they are slightly different in length.

The first film (<https://www.instagram.com/p/C7QcShlK9rJ/>) (**First Film**) depicts content that has previously been classified as RC by the Classifications Board.

The second film (<https://www.instagram.com/p/C4GR38rNHL9/>) (**Second Film**) and the third film (<https://www.instagram.com/p/C4GRdBjtK4p/>) (**Third Film**) depict portions of the same content, albeit in a different, shorter length to the material classified as RC by the Classifications Board.

Consequently, the Material was deemed to be class 1 material for depicting, expressing or otherwise dealing with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in such a way that they offend against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that they should not be classified.

The basis for giving the Notice is set out in the enclosed Notice. The Material is described in **Attachment A** to the Notice.

Required action

Please email requests@esafety.gov.au once you have removed the Material in compliance with the Notice.

If you have any questions about the Notice, or if you require a longer period of time to comply, contact our office by email to requests@esafety.gov.au as soon as you receive this Notice.

Failure to comply

Under section 111 of the Act, you must comply with a requirement under a removal notice given under section 109 of the Act to the extent that you are capable of doing so.

Failure to comply with the Notice may result in enforcement action, including the commencement of civil penalty proceedings for a civil penalty order of up to a maximum penalty of \$825,000 (AUD) for each contravention by a body corporate.

Review rights

You have a right to seek an internal or external review of the decision to give you a removal notice.

An internal review is a review conducted by the eSafety Commissioner under the Internal Review Scheme. There is no fee associated with a request for an internal review.

An external review is a review conducted by the Administrative Review Tribunal (**ART**). The enclosed information sheet sets out your rights regarding the different review options available to you, as well as other options if you do not agree that the Notice should have been given to you.

Please note that you are required to comply with the Notice even if you have made an application for internal or external review, unless you receive notice that the eSafety Commissioner or the ART has decided otherwise.

Manager, Illegal and Restricted Content Delegate of the eSafety Commissioner

Attachments: Notice under section 109 of the Act
Information Sheet

REMOVAL NOTICE RELATING TO CLASS 1 MATERIAL GIVEN TO THE PROVIDER OF A SOCIAL MEDIA SERVICE

Under section 109 of the *Online Safety Act 2021* (Cth)

To: **Meta Platforms, Inc.**

Submitted via Meta's Law Enforcement Online Request System

I am a delegate of the eSafety Commissioner for the purposes of section 109 of the *Online Safety Act 2021* (Cth) (**the Act**).

This removal notice is given to you under section 109 of the Act and requires you to take all reasonable steps to ensure the removal of the class 1 material (the **Material**) specified in **Attachment A**.

I give this notice to you on the basis that I am satisfied that:

- a) the Material is provided on your service, which is a social media service within the meaning of section 13 of the Act.
- b) the First Film of the Material as specified in **Attachment A** falls within the meaning of class 1 material in section 106(1)(a) of the Act, as the following conditions are satisfied:
 - i. the First Film of the Material is a film or the contents of a film;
 - ii. the First Film of the Material has been classified as RC by the Classification Board under the *Classification (Publications, Films and Computer Games) Act 1995* (**Classification Act**);
- c) the Second Film of the Material and Third Film of the Material as specified in **Attachment A** fall within the meaning of class 1 material in section 106(1)(b) of the Act, as the following conditions are satisfied:
 - i. the Second Film of the Material and Third Film of the Material are both a film or the contents of a film;
 - ii. neither the Second Film of the Material nor the Third Film of the Material has been classified by the Classification Board under the Classification Act;
 - iii. if either the Second Film of the Material or the Third Film of the Material were to be classified by the Classification Board under the Classification Act, they would be likely to be classified as RC;
- d) the Material can be accessed by end-users in Australia; and
- e) the Material is not provided on an exempt service under section 109(1)(d) of the Act.

You are required to comply within 24 hours of being given this notice, or within such longer period as I allow if contacted by you with a request for an extension.

Section 111 of the Act provides that a person must comply with a requirement under a removal notice given under section 109 of the Act to the extent the person is capable of doing so.

Failure to comply with a removal notice may result in enforcement action, including the commencement of civil penalty proceedings for a civil penalty order of up to a maximum penalty of \$825,000 (AUD) for a single contravention by a body corporate. A separate contravention occurs on each day where the material has not been removed within the required time period.

Date: 15 November 2024
Manager, Illegal and Restricted Content
Delegate of the eSafety Commissioner

ATTACHMENT A

Service on which the Material is provided:	Instagram
Location of the First Film of the Material:	https://www.instagram.com/p/C7QcShlK9rJ/
Description of the First Film of the Material:	The content depicts a 25 second Instagram video reel, featuring a montage of images and footage of dead, dying or gravely injured police officers following a road accident, set to music.
Location of the Second Film of the Material:	https://www.instagram.com/p/C4GR38rNHL9/
Description of the Second Film of the Material:	The content depicts a 9 second Instagram video reel, featuring footage of dead, dying or gravely injured police officers following a road accident. A person is heard saying 'Just one hurt or?'
Location of the Third Film of the Material:	https://www.instagram.com/p/C4GRdBjtK4p/
Description of the Third Film of the Material:	The content depicts a 13 second Instagram video reel, featuring footage of dead, dying or gravely injured police officers following a road accident. A person off camera is heard saying 'Absolutely amazing.'

Information sheet: Right of Review

Internal review by the eSafety Commissioner or nominee

You have a right to seek an internal review of this decision under eSafety's Internal Review Scheme. An internal review is an impartial review of the merits of a decision. The purpose of an internal review is to consider whether the original decision made was the correct and preferable one.

You must make an application for an internal review **within 30 days** of receiving the notice of this decision. If you intend to seek an internal review but are unable to make your application within 30 days, please email internalreview@esafety.gov.au.

There are no fees associated with an application for internal review.

To request an internal review, you will need to download and complete the **Request for internal review form** available on eSafety's website: www.esafety.gov.au/about-us/corporate-documents/internal-review.

Please fill the form out and email it or post a hard copy to eSafety.

Email: internalreview@esafety.gov.au

Post: **Attention:** Internal Review
eSafety Commissioner
PO Box Q500
Queen Victoria Building
NSW 1230

For additional information on eSafety's Internal Review Scheme, including the **eSafety Internal Review Procedure** and the **Online Safety (Internal Review Scheme) Instrument 2022**, please visit eSafety's website: www.esafety.gov.au/about-us/corporate-documents/internal-review.

External review by the Administrative Review Tribunal

You have a right to seek review of this decision by the Administrative Review Tribunal (**ART**). You can also request that the ART review a decision that has been made under the Internal Review Scheme.

It is recommended that you seek an internal review prior to seeking a review by the ART, however, there is no requirement to do so. You can choose to apply directly to the ART.

The ART is an independent body that can, among other things affirm, vary, or set aside the decision. If the ART sets aside the decision, it may make a substitute decision or remit the matter to the decision-maker to reconsider.

You must make any application for review to the ART for review in writing. The ART has a form available on its website which you can use.

Applications for review should be made **within 28 days** of being told about the decision.

You must enclose the application fee with your application. If you want to apply for the application fee to be reduced, you can obtain the application form for this from the ART.

The ART website (www.art.gov.au) has more information. If you have any questions about the ART's procedures and requirements, please contact the ART. Information about how to contact the ART is available at www.art.gov.au/contact-us.

Requesting a statement of reasons for decision

You may request a statement of reasons under section 268 of the *Administrative Review Tribunal Act 2024* (Cth). Your request needs to be made in writing **within 28 days** of being told of this decision. To request a statement of reasons, please email internalreview@esafety.gov.au.

Judicial Review

You may also be able to seek judicial review of this decision.

Judicial review does not consider the merits of the decision, and instead considers the legality of the decision, such as whether the decision-maker had power under the relevant statute to make the decision, followed the proper process and exercised the power in accordance with the law.

Should you wish to apply for judicial review of this decision, you may wish to obtain legal advice, as there may be costs involved.

Access to documents

You have a right to seek access to documents held by the eSafety Commissioner under the *Freedom of Information Act 1982* (**FOI Act**).

You must apply to the eSafety Commissioner in writing through one of the following options:

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