

NOTICE OF FILING

Details of Filing

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File Title:	ESAFETY COMMISSIONER v TELEGRAM FZ-LLC & ANOR
Registry:	VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink that reads "Sia Lagos". The signature is fluid and cursive, with the first letters of the first and last names being capitalized.

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



STATEMENT OF CLAIM

No. of 2026

Federal Court of Australia
District Registry: Victoria
Division: General

eSafety Commissioner

Applicant

Telegram FZ-LLC

First Respondent

Telegram Messenger Inc

Second Respondent

1. At all material times, the Applicant (the **Commissioner**):
 - (a) is and was the eSafety Commissioner under section 26 of the *Online Safety Act 2021* (Cth) (**OS Act**);
 - (b) had the functions set out in section 27 of the OS Act, which included to promote online safety for Australians and to monitor compliance with the OS Act.
2. The First Respondent is and at all material times was a company with a registered office in Dubai, United Arab Emirates.
3. The Second Respondent is and at all material times was a company with a registered office in Tortola, British Virgin Islands.

Filed on behalf of (name & role of party)	eSafety Commissioner, Applicant		
Prepared by (name of person/lawyer)	Tom Jarvis and Christopher Sones		
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Address for service

(include state and postcode) Level 15 Olderfleet, 477 Collins Street, Melbourne, VIC, 3000

4. At all material times, the First Respondent and/or the Second Respondent is and has been the provider of the Telegram Service, within the meaning of s 5 (and s 238) of the OS Act, for the purposes of s 146(1) of the OS Act (the **Provider**).

Telegram Service

5. The Telegram Service is a messaging and audio calling cloud-based app that allows users to send messages, photos, videos and files of any type to other users for free.
6. The Telegram Service offers account holders the ability to share material through **Telegram Public Channels or Telegram Public Groups**, or through **Telegram Private Channels or Telegram Private Groups**:
 - (a) Telegram Public Groups enable users to create groups for up to 200,000 people;
 - (b) Telegram Public Channels enable users to create channels for broadcasting to unlimited contacts or audiences;
 - (c) An end user can only join a Telegram Private Channel or a Telegram Private Group by being added by an admin of the group or by accepting an invitation to join.
7. The Telegram Service is:
 - (a) a relevant electronic service within the meaning of section 13A(1)(b) of the OS Act;
 - (b) a communication relevant electronic service within the meaning of s 6(1) of the *Online Safety (Relevant Electronic Services – Class 1A and Class 1B Material) Industry Standard 2024 (RES Standard)* because the predominate purpose is to enable an end-user to communicate with another end-user;
 - (c) a pre-assessed relevant electronic service within the meaning of s 6(1) of the RES Standard because it is a communication relevant electronic service.

Telegram Terms of Service

8. During the period 21 August 2025 to 18 December 2025, the **Terms of Service** for the Telegram Service stated:

“By signing up for Telegram, you accept our *Privacy Policy* and agree not to:

- Use our service to send spam or scam users.
- Promote crime, violence, and pro-terror content on publicly viewable Telegram channels, bots, etc. [**Prohibition on Pro-Terror Content**]
- Post illegal pornographic content on publicly viewable Telegram channels, bots, etc.
- Engage in activities that are recognized as illegal in the majority of countries. This includes child abuse, selling or offering illegal goods and services (drugs, firearms, forged documents), etc.

...

Users in Australia must be at least 18 years old to sign up.

We reserve the right to update these Terms of Service later.

Failure to comply with the Telegram Terms of Service may result in restriction or removal of content, suspension of your account or permanent ban from Telegram or some of its services.”

RES Standard

9. The RES Standard came into effect on 22 December 2024.
10. Since 22 December 2024, the RES Standard has applied to the Telegram Service as a relevant electronic service (including as a pre-assessed relevant electronic service and as a communication relevant electronic service) in so far as it is provided to end-users in Australia (s 5).

Object

11. The object of the RES Standard is to improve online safety for Australians in respect of class 1A material and class 1B material (s 4).

Relevant definitions

12. The RES Standard defines terms for the industry standard in s 6(1), including:
 - (a) “**account holder**, for a relevant electronic service, means the person who is the counterparty to the agreement with the provider of the service for the provision of the service”;

- (b) “**class 1A material** means (a) child sexual exploitation material; or (b) pro-terror material or (c) extreme crime and violence material”;
- (c) “**end-user**, of a relevant electronic service, means a natural person who uses the service”;
- (d) “**known pro-terror material** means material that has been verified as pro-terror material”;
- (e) “**pro-terror material** means (a) class 1 material that: (i) directly or indirectly counsels, promotes, encourages or urges the doing of a terrorist act; or (ii) directly or indirectly provides instruction in the doing of a terrorist act; or (iii) directly praises the doing of a terrorist act in circumstances where there is a substantial risk that the praise might have the effect of leading a person (regardless of the person’s age or any mental impairment that the person might suffer) to engage in a terrorist act; or (b) material that is known pro-terror material. However, material accessible using a relevant electronic service is not pro-terror material if its availability on the service can reasonably be taken to be part of public discussion, public debate, entertainment or satire”;
- (f) “**provide** a relevant electronic service includes make the service available”;
- (g) “**terms of use**, for a relevant electronic service, means the provisions of the agreement under which the service is provided and includes anything that may reasonably be regarded as the equivalent of terms of use”.

Appropriate action

13. Section 11(1) of the RES Standard outlines that the matters to be taken into account in determining whether something (including action) in relation to a relevant electronic service is appropriate.

Class 1A material

14. Between 27 September 2025 and 5 October 2025, end-users in Australia identified 12 instances of class 1A material on the Telegram Service (**12 Instances of Class 1A Material**).

15. Some of the instances of class 1A material had been available on the Telegram Service since 10 July 2025.
16. Of the 12 Instances of Class 1A Material, 3 of those instances were *known pro-terror material* within the meaning of s 6(1) of the RES Standard (**3 Instances of Known Pro-Terror Material**).
17. During the period 27 September 2025 to 5 October 2025, end-users in Australia reported the 12 Instances of Class 1A Material to the Provider (**Class 1A Reports**).

Particulars

The reports were made via the Telegram Service in-app interface.

18. The Class 1A Reports included 3 reports of known pro-terror material (**Known Pro-Terror Reports**).
19. Each of the 12 Instances of Class 1A Material was a breach of the Prohibition on Pro-Terror Content in the Terms of Service.
20. During the period 5 October 2025 to 24 October 2025, end-users in Australia identified that:
 - (a) 10 of the 12 Instances of Class 1A Material had not been removed from the Telegram Service (**10 Unremoved Instances of Class 1A Material**);
 - (b) the channels or groups where the 10 Unremoved Instances of Class 1A Material were located remained available on the Telegram Service; and
 - (c) the accounts which posted the 10 Unremoved Instances of Class 1A Material had not been removed or suspended from the Telegram Service.

Contraventions of the RES Standard

Section 13

21. Section 13(2)(b) of the RES Standards requires that the provider of a service must include in the terms of use for the service provisions “requiring the account holder of the service to ensure that the service is not used, whether by the account holder, or by

an end-user in Australia to solicit, access, distribute or store (as applicable having regard to the purpose and functionality of the service) class 1A material or class 1B material”.

22. During all or part of the period 21 August 2025 to 18 December 2025, the Prohibition on Pro-Terror Content did not apply to Telegram Private Channels or Telegram Private Groups.
23. Accordingly:
 - (a) the Terms of Service did not require an account holder to ensure that the Telegram Service was not used, by the account holder, or by an end-user in Australia, to access or distribute class 1A material; and thus,
 - (b) during all or part of the period 21 August 2025 to 18 December 2025, the First Respondent and/or the Second Respondent contravened:
 - (i) section 13(2)(b) of the RES Standard; and /or
 - (ii) section 13(7)(c) of the RES Standard.

Section 14

24. Section 14(2) of the RES Standard requires a provider of a service to “implement systems and processes that ensure that, if the provider becomes aware that there is or has been a breach of an obligation of terms of use for the service in respect of class 1A material, the provider takes appropriate action to ensure that:
 - (a) the breach, if it is continuing, ceases; and
 - (b) the risk of further such breaches is minimised”.

Provider became aware of breach of Terms of Service in respect of class 1A material

25. The First Respondent and/or the Second Respondent became aware during the period 27 September 2025 to 5 October 2025 that there were breaches of the Prohibition on Pro-Terror Content in respect of class 1A material from the Class 1A Reports.

Provider failed to take appropriate action

26. During all or part of the period 27 September 2025 to 24 October 2025, the First Respondent and/or the Second Respondent failed to take appropriate action in response to the Class 1A Reports to ensure that:
- (a) the breach of the Telegram Terms of Service ceased by failing to remove the 10 Unremoved Instances of Class 1A Material from the Telegram Service; and
 - (b) the risk of further such breaches was minimised by:
 - (i) failing to remove the 10 Unremoved Instances of Class 1A Material from the Telegram Service; and/or
 - (ii) failing to remove the channels or groups where the 10 Unremoved Instances of Class 1A Material were located from the Telegram Service, and/or
 - (iii) failing to remove or suspend the accounts which posted the 10 Unremoved Instances of Class 1A Material from the Telegram Service.
27. Accordingly:
- (a) the First Respondent and/or the Second Respondent failed to implement systems and processes as required by section 14(2) of the RES Standard.
 - (b) the First Respondent and/or the Second Respondent contravened section 14(2) of the RES Standard.

Section 15

28. Section 15(2) of the RES Standard applies if a provider of a service becomes aware that the service is being, or has been used, to solicit, access, distribute or store class 1A material (regardless of whether this amounts to a breach of the terms of use).
29. If the provider becomes so aware, the provider must:
- (a) “as soon as practicable, remove the material, or cause the material to be removed, from the service” unless it is not “technically feasible or reasonably

practicable” to do so, or the provider has been required by a law enforcement authority to retain the material (s 15(2)(a)); and

- (b) “take appropriate action to ensure that the service no longer permits access to or distribution of the material; any related breach of the terms of use ... ceases; and the risk of further such breaches of the terms of use for the service is minimised” (s 15(2)(b)).

Provider became aware the Telegram Service was being used to access or distribute class 1A material

- 30. The First Respondent and/or the Second Respondent became aware during the period 27 September 2025 to 5 October 2025 that the Telegram Service was being used to access or distribute class 1A material from the Class 1A Reports.

Provider failed to remove the material as soon as practicable

- 31. During all or part of the period 27 September 2025 to 24 October 2025, the First Respondent and/or the Second Respondent failed to remove, or cause to be removed, the 10 Unremoved Instances of Class 1A Material, as soon as reasonably practicable by failing to promptly remove the 10 Unremoved Instances of Class 1A Material from the Telegram Service upon becoming aware of the instance of class 1A material.

Provider failed to take appropriate action to ensure access to class 1A material ceased

- 32. During all or part of the period 27 September 2025 to 24 October 2025, the First Respondent and/or the Second Respondent failed to take appropriate action to ensure that the Telegram Service no longer permitted access to, or distribution of, the 10 Unremoved Instances of Class 1A Material by failing to promptly remove the 10 Unremoved Instances of Class 1A Material from the Telegram Service upon becoming aware of the instance of class 1A material.

Provider failed to take appropriate action to ensure any breach of the Terms of Service ceased

- 33. During all or part of the period 27 September 2025 to 24 October 2025, the First Respondent and/or the Second Respondent failed to take appropriate action to ensure that the breach of the Prohibition on Pro-Terror Content in the Terms of Service ceased by failing to promptly remove the 10 Unremoved Instances of Class 1A Material from the Telegram Service upon becoming aware of the instance of class 1A material.

Provider failed to take appropriate action to minimise risk of further breaches

34. During all or part of the period 27 September 2025 to 24 October 2025, the First Respondent and/or the Second Respondent failed to take appropriate action to ensure the risk of further such breaches of the Terms of Service were minimised, upon becoming aware of the instance of class 1A material, by failing:
- (a) to promptly remove the 10 Unremoved Instances of Class 1A Material from the Telegram Service; and
 - (b) to remove the channels or groups where the 10 Unremoved Instances of Class 1A Material were located from the Telegram Service; or
 - (c) to remove or suspend the accounts that posted the 10 Unremoved Instances of Class 1A Material from the Telegram Service.
35. By reason of the matters pleaded in paragraphs 30 to 34, the First Respondent and/or the Second Respondent contravened section 15(2) of the RES Standard.

Section 20

36. Section 20(2) of the RES Standard requires a provider of a service to implement appropriate systems, appropriate processes and appropriate technologies to:
- (a) detect and identify known pro-terror material that is stored on the service or is being distributed by or to an end-user in Australia using the service (s 20(2)(a)); and
 - (b) remove known pro-terror material from the service as soon as practicable after the provider becomes aware of it (s 20(2)(b)).

Failure to implement appropriate systems, processes and technologies to detect known pro-terror material

37. By reason of the presence of instances of known pro-terror material on the Telegram Service during all or part of the period 10 July 2025 to 24 October 2025, the First Respondent and/or the Second Respondent failed to implement appropriate systems, appropriate processes or appropriate technologies to detect and identify known pro-terror material that was being distributed to an end-user in Australia using the Telegram Service.

Provide became aware of the known pro-terror material

38. The First Respondent and/or the Second Respondent became aware during the period 27 September 2025 to 5 October 2025 that the Telegram Service was being used to distribute known pro-terror material to end-users in Australia from the Known Pro-Terror Reports.

Failure to remove known pro-terror material as soon as practicable

39. During all or part of the period 27 September 2025 to 24 October 2025, the First Respondent and/or the Second Respondent failed to remove known pro-terror material as soon as practicable by failing to promptly remove instances of Known Pro-Terror Material from the Telegram Service upon becoming aware of the instances of Known Pro-Terror Material.
40. By reason of the matters pleaded in paragraphs 37 to 39, the First Respondent and/or the Second Respondent contravened section 20(2) of the RES Standard.

Section 21

41. Section 21(2) of the RES Standard relevantly requires a provider of a service to implement systems and processes and, if it appropriate to do so, technologies that:
- (a) effectively deter end-users of the service from using the service; and
 - (b) effectively disrupt attempts by end-users of the service to use the service,
- to create, offer, solicit, access, distribute or otherwise make available, or store pro-terror material.
42. By reason of:
- (a) instances of Class 1A Material on the Telegram Service during all or part of the period 10 July 2025 to 24 October 2025; and/or
 - (b) the 10 Unremoved Instances of Class 1A Material remaining on the Telegram Service for:
 - (i) at least seven days; or
 - (ii) alternatively, at least 20 days;

after being reported to the provider; and/or

- (c) the channels or groups where the 10 Unremoved Instances of Class 1A Material were located remaining on the Telegram Service for:

- (i) at least seven days; or
- (ii) alternatively, at least 20 days

after being reported to the provider; and/or

- (d) the accounts which posted the 10 Unremoved Instances of Class 1A Material not being removed or suspended from the Telegram Service for:

- (i) at least seven days; or
- (ii) alternatively, at least 20 days

after the 10 Unremoved Instances of Class 1A Material was reported to the provider,

the First Respondent and/or the Second Respondent failed to implement systems and processes as required by section 21(2) of the RES Standard.

- 43. Accordingly, the First Respondent and/or the Second Respondent contravened section 21(2) of the RES Standard.

Section 29(2)(b)

- 44. Where a person makes a report to the provider of the service under subsection 28(2), section 29(2)(b) of the RES Standard requires the provider of the service, whether or not the provider responds promptly to the complainant acknowledging the report, to take appropriate and timely action to investigate the report (s 29(2)(b)).
- 45. During all or part of the period 27 September 2025 to 24 October 2026, the First Respondent and/or the Second Respondent failed to take appropriate and timely action to investigate 10 of the reports of instances of Class 1A Material because the 10 Unremoved Instances of Class 1A Material remained available on the Telegram Service.

46. Accordingly, the First Respondent and/or the Second Respondent contravened section 29(2)(b) of the RES Standard.

Section 29(4)

47. Section 29(4) of the RES Standard requires the provider of the service to notify the complainant:
- (a) of any outcome of any investigation into the report and any action proposed by the provider in consequence of the investigation (s 29(4)(a)); or
 - (b) if the provider did not investigate the report, notify the complainant of that fact and of any action proposed by the provider in consequence of the report (s 29(4)(b)).
48. During all or part of the period 27 September 2025 to 29 July 2026, the end-users in Australia did not receive any notification from the First Respondent or the Second Respondent in response to any of the reports of 12 Instances of Class 1A Material.
49. Accordingly, the First Respondent and/or the Second Respondent contravened section 29(4) of the RES Standard.

AND THE APPLICANT SEEKS BY WAY OF RELIEF:

- A. A declaration that, during the period 21 August 2025 to 18 December 2025, the First Respondent and/or the Second Respondent contravened section 13(2)(b) and/or section 13(7)(c) of the RES Standard, by reason that the Terms of Service for the Telegram Service failed to require in an account holder to ensure that the Telegram Service was not used, by the account holder, or by an end-user in Australia, to access or distribute class 1A material on Telegram Private Channels or Telegram Private Groups.
- B. A declaration that, during all or part of the period 27 September 2025 to 24 October 2025, the First Respondent and/or the Second Respondent contravened section 14(2) of the RES Standard, in not implementing systems and processes that ensured that, if the provider of the Telegram Service became aware that there had been a breach of an obligation under the Terms of Service for the Telegram Service in respect of class 1A material, the provider would take appropriate action to ensure that the breach ceased and the risk of further such breaches was minimised.

- C. A declaration that, during all or part of the period 27 September 2025 to 24 October 2025, the First Respondent and/or the Second Respondent contravened section 15(2) of the RES Standard in failing, upon becoming aware that the Telegram Service was being used on 10 occasions to access or distribute an instance of class 1A material on the Telegram Service, to:
- (a) as soon as practicable, remove the material or cause the material to be removed from the Telegram Service; and
 - (b) to take appropriate action to ensure that: the Telegram Service no longer permitted access to or distribution of the material; any related breach of the Terms of Service for the Telegram Service ceased; and the risk of further such breaches of the Terms of Service for the Telegram Service was minimised.
- D. A declaration that, during all or part of the period 10 July 2025 to 24 October 2025, the First Respondent and/or the Second Respondent contravened section 20(2) of the RES Standard, in not implementing appropriate systems, appropriate processes and appropriate technologies, or any appropriate alternative action, to:
- (a) detect and identify known-terror material that is stored on the Telegram Service, or is being distributed to an end-user in Australia using the Telegram Service; and
 - (b) remove known pro terror material from the Telegram Service as soon as practicable after the provider become aware of it.
- E. A declaration that, during all or part of the period 10 July 2025 to 24 October 2025, the First Respondent and/or the Second Respondent contravened section 21(2) of the RES Standard, in not implementing systems or processes that:
- (a) effectively deterred end-users of the Telegram Service from using the Telegram Service; and
 - (b) effectively disrupted attempts by end-users of the Telegram Service to use the Telegram Service,
- to access, distribute or otherwise make available pro-terror material.

- F. A declaration that, during all or part of the period 27 September 2025 to 24 October 2025, the First Respondent and/or the Second Respondent, contravened section 29(2)(b) of the RES Standard on 10 separate occasions, in failing to take appropriate and timely action to investigate the reports.
- G. A declaration that, during all or part of the period 27 September 2025 to 29 July 2026 or, the First Respondent and/or the Second Respondent, contravened section 29(4) of the RES Standard on 12 separate occasions, in not notifying the complainant of the outcome of an investigation into a report.
- H. A declaration that:
- (a) each contravention of section 13(2)(b) and/or 13(7)(c) of the RES Standard;
 - (b) each contravention of section 14(2) of the RES Standard;
 - (c) each contravention of section 15(2) of the RES Standard;
 - (d) each contravention of section 20(2) of the RES Standard;
 - (e) each contravention of section 21(2) of the RES Standard;
 - (f) each contravention of section 29(2)(b) of the RES Standard; and
 - (g) each contravention of section 29(4) of the RES Standard,
- was a breach of section 146(1) of the *Online Safety Act 2021* (Cth).
- I. An order that the First Respondent and/or the Second Respondent pay to the Commonwealth such pecuniary penalty, or pecuniary penalties, as the Court determines to be appropriate in respect of that conduct declared to be in contravention of section 146(1) of the *Online Safety Act 2021* (Cth).
- J. An order that the First Respondent and/or the Second Respondent pay the Applicant's costs.
- K. Such further or other orders or relief as this Honourable Court deems fit.

Date: 29 July 2026

London & Rogers

Signed by Tom Jarvis
Lawyer for the Applicant

This pleading was prepared by Philip Solomon KC and Fiona Batten.

CERTIFICATE OF LAWYER

I Tom Jarvis certify to the Court that, in relation to the statement of claim filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 29 July 2026



Signed by Tom Jarvis
Lawyer for the Applicant