



24 April 2024

Google LLC

By Google's Webform: s 47G(1)(a)

Our Reference: INV-2024-11659, INV-2024-11753 and INV-2024-11823

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.

Background

On Saturday 20 April 2024, the eSafety Commissioner 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 20 April 2024, the eSafety Commissioner sent a notification to YouTube through eSafety's YouTube Deputy account and through YouTube's government portal s 47G(1)(a) on 21 April 2024. The YouTube Legal Support Team responded on 21 April 2024 and notified that eSafety is required to submit a removal notice for the Material. 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 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 is not provided on an exempt service under section 109(1)(d) 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 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: Google LLC

By Google's Webform: 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: 24 April 2024

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

ATTACHMENT A

<p>Service on which the material is provided:</p>	<p>YouTube</p>
<p>Location of material:</p>	<p>s 7(2)</p>
<p>Description of material:</p>	<p>The URL resolves to a video sharing page for a 1:23 minute video titled: s 7(2)</p> <p>At four seconds to 14 seconds the video depicts footage of the Wakeley terrorist attack and depicts a male bishop inside a church standing on a pulpit facing towards a camera. The bishop 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 bishop to the left of screen. When the attacker is near the bishop, they raise their right arm and lunge, bringing their right hand down and into contact with the bishop. The attacker appears to be holding a pointed object in their right hand. The attacker is seen to strike the bishop with the knife several times to the head and upper body. The bishop falls backwards with the attacker standing over him. Screams can be heard coming from other people inside the church, several people stand up in front the camera, and rush towards the pulpit. The camera pans to the left.</p> <p>The material depicts real violence, and an alleged attempted murder that has been designated a terrorist act.</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 by the Classification Board under the National Classification Scheme criteria.</p>
<p>Location of material:</p>	<p>s 7(2)</p>
<p>Description of material:</p>	<p>The URL resolves to a video sharing page for a 2:26 minute video titled: s 7(2)</p> <p>At 26 seconds to 33 seconds the video depicts footage of the Wakeley terrorist attack and depicts a male bishop inside a church standing on a pulpit facing towards a camera. The bishop 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 bishop to the left of screen. When the attacker is near the bishop, they raise their right arm and lunge, bringing their right hand down and into contact with the bishop. The attacker</p>

	<p>appears to be holding a pointed object in their right hand. The attacker is seen to strike the bishop with the knife several times to the head and upper body. The bishop falls backwards with the attacker standing over him. Screams can be heard coming from other people inside the church, several people stand up in front the camera, and rush towards the pulpit.</p> <p>The material depicts real violence, an alleged attempted murder that has been designated a terrorist act.</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 by the Classification Board under the National Classification Scheme criteria.</p>
<p>Location of material:</p>	<p>s 7(2)</p>
<p>Description of material:</p>	<p>The URL resolves to a video sharing page for a 11 second video titled: s 7(2)</p> <p>The video runs for 11 seconds and depicts a male bishop inside a church standing on a pulpit facing towards a camera. The bishop 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 bishop to the left of screen. When the attacker is near the bishop, they raise their right arm and lunge, bringing their right hand down and into contact with the bishop. The attacker appears to be holding a pointed object in their right hand. The attacker is seen to strike the bishop with the knife several times to the head and upper body. The bishop falls backwards with the attacker standing over him. Screams can be heard coming from other people inside the church, several people stand up in front the camera, and rush towards the pulpit. The camera pans to the left. From three seconds people are heard screaming in terror.</p> <p>The material depicts real violence, an alleged attempted murder that has been designated a terrorist act.</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 by the Classification Board under the National Classification Scheme criteria.</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.fcfcga.gov.au/gfl/administrative-adjr.

----- Original Message -----

From: s 47G(1)(a)
Received: Fri Apr 26 2024 00:23:03 GMT+1000 (Australian Eastern Standard Time)
To: Requests
Subject: Your Request to Google

You don't often get email from s 47G(1)(a) [Learn why this is important](#)

Hello,

Regarding the following URL(s):

s 7(2)

At the time this notice was received by YouTube, this video This video had already been removed in accordance with YouTube's policies.

Regarding the following URL(s):

s 7(2)

The uploader no longer makes this video available in Australia.

Regarding the following URL(s):

s 7(2)

The uploader no longer makes this video available in Australia.

Regards,

The YouTube Legal Support Team

On April 24, 2024 Contact Us Form wrote:

```
full_name: eSafety Commissioner
officialname: eSafety Commissioner
yourposition: Manager
contact_email_noprefill: s 47E(d)
gov_country: AU
gov_URL: s 7(2)
gov_URL:
gov_URL:
gov_explain: The content is class 1 material under the Online Safety Act
2021 for depicting matters of crime, cruelty and real violence.
gov_quote: s 7(2) video from 4 seconds, s 7(2) video from 26 seconds
and Senator Babet video: the footage depicts a priest standing on a pulpit.
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A person appears who then lunges at the priest stabbing him repeatedly. The material depicts real violence that has been designated a terrorist act.

signature_date: 4/24/2024

signature: eSafety Commissioner

attachment: There was a file uploaded for this field.

upload_original_filename: Section 109 - Class 1 removal notice - Google LLC
- YouTube.pdf

upload_cns_filename:

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jwtr4U

lr_gov_subject: Your Request to Google

hidden_category:

hidden_ctx:

geolocation: US