

X Corp.



1355 Market St #900
San Francisco, CA 94103

**Legally Privileged
Confidential**

s 22
Senior Lawyer, Legal – Business Services
eSafety Commissioner

By email: FOI@esafety.gov.au

9 May 2024

Dear s 22

Thank you for your correspondence dated 2 May 2024 and for informing us that the eSafety Commissioner (“eSafety”) has received a request under the Freedom of Information Act 1982 (Cth) (“FOI Act”) for access to the following documents in relation to a report that was made to eSafety:

“...all records, documents, emails and information related to the case, as well as any policy discussions that led to the decision.”

The relevant ‘case’ and ‘decision’ in this instance pertaining to the removal notice issued by eSafety to X Corp. on 22 March 2024 with respect to a post by @BillboardChris.

We have reviewed the schedule of documents and the documents which eSafety holds that may be within the scope of the request.

After careful review of the material, we do not intend to seek exemption under the FOI Act from disclosure in full of any of the documents you have supplied.

We thank you for making redactions from any and all documents disclosed to remove any personal identifying information of X Corp. staff. In application of section 47F of the FOI Act, we would request that all instances where personal or identifying information of X Corp. employees (including names, email address(es) and job titles) be redacted.

We also request that the X case number(s) assigned to the case associated with this user be redacted.

On a strictly non-precedential basis, we do not make any further requests for redactions.

We have included in an appendix to this letter the Schedule of Documents with our requests identified.

X Corp.



1355 Market St #900
San Francisco, CA 94103

We also understand that your email was sent to certain individuals. Please note that individuals are not authorized to receive or assess any legal request, legal notice, claim, or court order relating to information on the X platform. Going forward, please direct this type of notice to FOI@x.com.

Please let us know if you have any further questions.

Yours sincerely,

X Corp.

APPENDIX
Freedom of Information Request 24104 – X Corp. Consultation

#	Date	Description	eSafety proposed approach	X Corp. response
1	Unknown	Automated email response from X acknowledging receipt of request to access their online legal request submission system	<i>Release in full</i>	<i>No objections to eSafety's proposal to release.</i>
2	Unknown	Email response from X stating that the reported content of @BillboardChris has been withheld in Australia	<i>Release in full</i>	<i>No objections to eSafety's proposal to release.</i>
3	Unknown	Email correspondence between s 47F of X Corp. and s 22 of eSafety regarding removal notice issued to X	<i>Personal information of eSafety and X Corp. staff to be removed</i>	<i>No objections to eSafety's proposal to release with exemptions/redactions proposed by eSafety.</i> <i>Any personal or identifying information of any X Corp. employees (names / email addresses / job titles) should be redacted.</i>
4	Unknown	Email from eSafety Cyber Abuse team to X Corp. alerting X Corp. of eSafety complaint	<i>Release in full</i>	<i>No objections to eSafety's proposal to release.</i>
5	Unknown	Email from X notifying eSafety that reported content was not deemed to be in violation of X rules	<i>Release in full</i>	<i>No objections to eSafety's proposal to release.</i>
6	Unknown	Screenshot of CRM dashboard relating to removal notice sent by eSafety to X and subsequent actions/outcomes	<i>Personal information of eSafety and X Corp. staff to be removed</i>	<i>No objections to eSafety's proposal to release with exemptions/redactions proposed by eSafety.</i> <i>In addition:</i> <i>(i) any personal or identifying information of any X Corp. employee (name / email address / job title) should be redacted.</i>

				<p><i>(ii) The case number(s) assigned to the case associated with this user which was/were under legal review should also be redacted.</i></p>
7	25/03/2024	<p>Email from s 22 [redacted] of eSafety to s 47F [redacted] of X Corp. enclosing removal notice to X Corp.</p>	<p><i>Personal information of eSafety and X Corp. staff to be removed</i></p>	<p><i>No objections to eSafety's proposal to release with exemptions/redactions proposed by eSafety.</i></p> <p><i>Any personal or identifying information of any X Corp. employee (name / email address / job title) should be redacted.</i></p>

X Corp.



1355 Market St #900
San Francisco, CA 94103

**Legally Privileged
Confidential**

s 22
Senior Lawyer, Legal – Business Services
eSafety Commissioner

By email: FOI@esafety.gov.au

23 May 2024

Dear s 22 ,

Thank you for eSafety's further correspondence dated 17 May 2024 regarding X Corp.'s consultation response for FOI 24104.

After further careful review of the material, and on a strictly non-precedential basis, we confirm that we will not seek exemption under the FOI Act from disclosure of the X case number(s) assigned to the case associated with this user.

We would kindly request that you consult us separately for any and all other eSafety FOI requests which contain documents with X case number(s).

Yours sincerely,

X Corp.



Statement of Reasons

Date	22 March 2024
Decision	To give the attached removal notice to X Corp, under section 88 of the <i>Online Safety Act 2021</i> (Cth)
Decision-maker	s 22 [REDACTED] Acting Manager, Adult Cyber Abuse
Case reference	ACA-2024-0496095

Introduction

1. I am a delegate of the eSafety Commissioner (eSafety) for the purposes of section 88 of the Online Safety Act 2021 (Cth) (**the Act**).
2. This statement sets out my reasons to give the attached removal notice to X Corp under section 88 of the Act (**the Notice**). The Notice requires X Corp to take all reasonable steps to ensure the removal of the material specified in the notice as cyber-abuse material targeted at an Australian adult (**the Material**).

Legislative framework

3. Part 7 of the Act establishes a scheme for the removal of cyber-abuse material targeted at an Australian adult from a social media service, relevant electronic service, designated internet service and hosting service.
4. Section 88 provides eSafety with the power, if certain requirements are met, to give a removal notice to a provider of a social media service, relevant electronic service or designated internet service requiring them to take all reasonable steps to remove adult cyber-abuse material from the service.

Decision


5. I have decided to give the Notice to X Corp under section 88 of the Act based on the Material and the reasons below.

Material relied upon to make decision

6. I have taken the following information into account in making my decision:
 - a. The complaint made under section 36(1) of the Act by s 47F, s 47E(d) [REDACTED], the Complainant (**the eSafety Complaint**).
 - b. The following information ascertained by eSafety in handling the eSafety Complaint:
 - i. On 28 February 2024, the Complainant made a report to X Corp (**the Provider Complaint**).

- ii. On 29 February 2024 at 11:35am, eSafety received the eSafety Complaint

s 47E(d), s 47F



7. I have taken the following documents into account in making my decision:
 - a. The Material, as described above and attached at **Appendix B**;
 - b. eSafety's Adult Cyber Abuse Scheme Regulatory Guidance (December 2023); and
 - c. The relevant sections of the Act which are extracted in **Appendix A**.


Reasons for decision

8. I am satisfied that the requirements for giving a removal notice under section 88 of the Act have been met. Having considered the above documents and information, I am satisfied that:
 - a. The Material is provided on X Corp's X service, which is a social media service, within the meaning of section 13 of the Act. This is because X is an electronic service that has the sole or primary purpose of enabling online social interaction between two or more end-users, allows end-users to link to and interact with other end-users, and allows end-users to post material to the service.
 - b. The Material is provided on the service within the meaning of section 10 of the Act because the Material is accessible to, or delivered to, one or more other end-users using the service through a hyperlink or URL that is accessible to the public (<https://twitter.com/BillboardChris/status/1762620001696244063>).
 - c. The Material was the subject of the Provider Complaint, which was made to the provider of the service. The Complainant submitted a report to X Corp about the Material on 28 February 2024. A screenshot of the Provider Complaint was provided to eSafety on 8 March 2024 (see Appendix C).
 - d. The Material the subject of the Provider Complaint was not removed from the service within 48 hours of the Provider Complaint.
 - e. On 1 March 2024, eSafety sent an informal complaint alert to X Corp via email at AUEScalations@twitter.com. On 6 March 2024, X Corp responded to eSafety's request. X Corp informed eSafety that they reviewed the reported

content and did not find it to be in violation of their policies. They stated that because of that decision, no action would be taken.

- f. The Material is available at the same location on the service to date.


s 47E(d), s 47F



- h. The Material is cyber-abuse material targeted at an Australian adult within the meaning of section 7 of the Act because:

- i. The Material is provided on a social media service.
- ii. An ordinary reasonable person would conclude that it is likely that the Material was intended to have an effect of causing 'serious harm', as defined in section 5 of the Act, to a particular Australian adult based on the following reasons:

s 47E(d), s 47F



s 47E(d), s 47F

iii. An ordinary reasonable person in the position of the Australian adult would regard the Material as being, in all the circumstances, offensive based on the following:

- o The Material exceed the standards of morality, decency and propriety generally accepted by reasonable adults. Although, it is understood that society permits a degree of online disagreement, particularly where it relates to political or topical concerns, s 47E(d), s 47F

[Redacted]

[Redacted] The Material therefore does not meet these standards;

- o The Material does not have any apparent literary, artistic or educational merit;
- o The Material is in the character of a social media post, and is not of medical, legal or scientific character; and
- o I consider that while an ordinary reasonable person would consider the Material offensive regardless of whether s

[Redacted] 47E (d), s

[Redacted] 47F

Conclusion

The reasons provided above are the reasons for my decision to give the Notice under section 88 of the Act to X Corp.

Signed:

s 22



Manager, Adult Cyber Abuse Section (EL2)
Delegate of the eSafety Commissioner

Date: 22 March 2024

Appendix A – Extracts of relevant sections of the *Online Safety Act 2021 (Cth)*

7 Cyber-abuse material targeted at an Australian adult

- (1) For the purposes of this Act, if material satisfies the following conditions:
- (a) the material is provided on:
 - (i) a social media service; or
 - (ii) a relevant electronic service; or
 - (iii) a designated internet service;
 - (b) an ordinary reasonable person would conclude that it is likely that the material was intended to have an effect of causing serious harm to a particular Australian adult;
 - (c) an ordinary reasonable person in the position of the Australian adult would regard the material as being, in all the circumstances, menacing, harassing or offensive;
 - (d) such other conditions (if any) as are set out in the legislative rules;
- then:
- (e) the material is **cyber-abuse material targeted at the Australian adult**, and
 - (f) the Australian adult is the **target** of the material.

Note: For **serious harm**, see section 5.

- (2) An effect mentioned in paragraph (1)(b) may be:
- (a) a direct result of the material being accessed by, or delivered to, the Australian adult; or
 - (b) an indirect result of the material being accessed by, or delivered to, one or more other persons.

8 Determining whether material is offensive

- (1) The matters to be taken into account in deciding for the purposes of this Act whether an ordinary reasonable person in the position of a particular Australian adult would regard particular material as being, in all the circumstances, offensive, include:
- (a) the standards of morality, decency and propriety generally accepted by reasonable adults; and
 - (b) the literary, artistic or educational merit (if any) of the material; and
 - (c) the general character of the material (including whether it is of a medical, legal or scientific character).
- (2) If:
- (a) material is provided on:
 - (i) a social media service; or
 - (ii) a relevant electronic service; or
 - (iii) a designated internet service; and
 - (b) the material is private sexual material;
- then, in deciding for the purposes of this Act whether an ordinary reasonable person in the position of a particular Australian adult would regard the material

as being, in all the circumstances, offensive, regard must be had to whether the subject, or each of the subjects, of the private sexual material gave consent to the material being provided on the service.

(3) Subsection (2) does not limit subsection (1).

36 Complaints about cyber-abuse material

Complaint made by an Australian adult

(1) If an Australian adult has reason to believe that the adult was or is the target of cyber-abuse material that has been, or is being, provided on:

- (a) a particular social media service; or
- (b) a particular relevant electronic service; or
- (c) a particular designated internet service;

the adult may make a complaint to the Commissioner about the matter.

Complaint made on behalf of an Australian adult

(2) If:

(a) a person (the **responsible person**) has reason to believe that cyber-abuse material targeted at an Australian adult has been, or is being, provided on:

- (i) a particular social media service; or
- (ii) a particular relevant electronic service; or
- (iii) a particular designated internet service; and

(b) the adult has authorised the responsible person to make a complaint about the matter;

the responsible person may, on behalf of the adult, make a complaint to the Commissioner about the matter.

Complaint about material that was provided on a service

(3) If:

(a) a complaint made by a person under this section concerns material that has been, or is being, provided on:

- (i) a social media service; or
- (ii) a relevant electronic service; or
- (iii) a designated internet service; and

(b) the person wants the Commissioner to give the provider of the service a removal notice under section 88 requiring the provider to remove the material from the service;

the complaint under this section must be accompanied by evidence that the material was the subject of a complaint that was previously made to the provider of the service.

(4) For the purposes of subsection (3), evidence must be in a form required by the Commissioner.

(5) If:

- (a) a social media service; or
- (b) a relevant electronic service; or
- (c) a designated internet service;

issues a receipt or complaint number to a complainant as part of its ordinary business processes, the Commissioner may require evidence to be in the form of the receipt or complaint number.

- (6) If:
- (a) a social media service; or
 - (b) a relevant electronic service; or
 - (c) a designated internet service;
- does not issue a receipt or complaint number to a complainant as part of its ordinary business processes, the Commissioner may require evidence to be:
- (d) in the form of a screen shot; or
 - (e) in the form of a statutory declaration; or
 - (f) in such other form as the Commissioner specifies.
- (7) Subsections (5) and (6) do not limit subsection (4).
- (8) A requirement under subsection (4), (5) or (6) is not a legislative instrument.

88 Removal notice given to the provider of a social media service, relevant electronic service or designated internet service


- (1) If:
- (a) material is, or has been, provided on:
 - (i) a social media service; or
 - (ii) a relevant electronic service; or
 - (iii) a designated internet service; and
 - (b) the Commissioner is satisfied that the material is or was cyber-abuse material targeted at an Australian adult; and
 - (c) the material was the subject of a complaint that was made to the provider of the service; and
 - (d) if such a complaint was made—the material was not removed from the service within:
 - (i) 48 hours after the complaint was made; or
 - (ii) such longer period as the Commissioner allows; and
 - (e) a complaint has been made to the Commissioner under section 36 about the material;
- the Commissioner may give the provider of the service a written notice, to be known as a **removal notice**, requiring the provider to:
- (f) take all reasonable steps to ensure the removal of the material from the service; and
 - (g) do so within:
 - (i) 24 hours after the notice was given to the provider; or
 - (ii) such longer period as the Commissioner allows.
- (2) So far as is reasonably practicable, the material must be identified in the removal notice in a way that is sufficient to enable the provider of the service to comply with the notice.

Notice of refusal to give a removal notice

- (3) If the Commissioner decides to refuse to give a removal notice under subsection (1), the Commissioner must give written notice of the refusal to the person who made the complaint to the Commissioner under section 36.

Appendix B – the Material the subject of the Notice

s 47E(d), s 47F



Appendix C – the Provider Complaint


×

Report · February 28, 2024

You submitted a report for hateful conduct

[View Rule](#)

s 47E(d), s 47F



What's next

Our team and technology will review your report. If we find a rule violation, we'll let you know what actions we're taking.

What's our process?

Context matters. We consider the following factors when enforcing our rules (this isn't a complete list):

- Does the reported content target people because of their identity?
- How severe is this violation?
- Was the report submitted by the person being targeted?

Creating duplicate reports will not accelerate our process.

s 22

s 22 28/02 11:19 am

s 22 Hi s 22 - s 47F will make a report - even if no action can be taken for the additional support. (s 47F s 47F is the additional person who was in that shot)

28/02 11:19 am

Hi s 22 ok thanks for that mate. I won't send you a hypothetical assessment in that case

Thursday, 29 February

s 22 29/02 9:28 am

s 22 sorry to email so latew s 22 Did s 22 lodge a report.

29/02 9:29 am

Sorry s 22 could you remind me of the name? I deleted your email and now it's slipped my mind

29/02 9:29 am

Nothing from s 47F mate

s 22 29/02 9:30 am

s 22 I asked him to report it to Twitter - maybe he is waiting to hear what they come back with



Type a message

OFFICIAL

eSafety FOI 24231
Document 11/60

Hi s 22

So, our IRCT classifies it as refused classification (RC1(a)). s 47E(d) [REDACTED] We would encourage the complainant to report the content directly to the platform.

Hope that helps.

From: Cyber Abuse <cyberabuse@esafety.gov.au>
Sent: Thursday, February 29, 2024 12:16 PM
To: s 22 @eSafety.gov.au
Subject: [SEC=OFFICIAL:Sensitive] CRM:0100536

Hi s 22

Second post for your review and advice:
<https://twitter.com/BillboardChris/status/1762620001696244063>

Thanks,
s 22

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

From: CA Escalations

Received: Fri Mar 01 2024 15:44:37 GMT+1100 (Australian Eastern Daylight Time)

To: Twitter

Subject: Complaint alert for cyber abuse report - NOT-2024-00220 [SEC=OFFICIAL:Sensitive] CRM:0100541

Dear X Corp,

Under the *Online Safety Act 2021*, the eSafety Commissioner is responsible for handling complaints about cyber abuse material concerning Australian adults and ensuring the rapid removal of such material from social media services, relevant electronic services, or designated internet services. Please refer to our website for more information on our role: <https://www.esafety.gov.au/about-the-office>

We wish to alert you to a complaint we have recently received. The eSafety complaint number is NOT-2024-00220. We are alerting this complaint to you on the basis that the material may be in violation of your policies.

s 47F
[Redacted]

From the information provided in the complaint, the tweets may violate the X Rules and policies. According to the Twitters Rules:

- 'Hateful conduct: You may not directly attack other people on the basis of race, ethnicity, national origin, caste, sexual orientation, gender, gender identity, religious affiliation, age, disability, or serious disease.'
- 'Hateful conduct: We prohibit targeting others with repeated slurs, tropes or other content that intends to degrade or reinforce negative or harmful stereotypes about a protected category.'
- 'Sensitive media: Media depicting Gratuitous Gore, Violent Sexual Conduct, or Bestiality and Necrophilia is not permitted.'

We would appreciate your confirmation that you have received this email. We ask that you also advise what actions are taken as a result of this report.

As you are aware, the material may also have been shared or posted elsewhere on your service and we would be grateful for your consideration of any such material and any help you can offer in this regard.

Regards,

Cyber Abuse Team
The eSafety Commissioner

W www.esafety.gov.au



s 22

1/03 3:57 pm

s 22


do you need to see response to s 47F ?

The following Complaint Alert record is now overdue for a response:

eSafety FOI 24231
Document 15/60

- Reference: NOT-2024-00220
- Date Sent: 1/03/2024 3:44 PM
- Due Date: 2/03/2024 3:44 PM
- Record URL: <https://case.crme.case.mgmt.local:443/main.aspx?etc=10124&id=81cbc4c5-84d7-ee11-a320-0050569455e4&histKey=114830645&newWindow=true&pagetype=entityrecord>

You don't often get email from support@twitter.com. [Learn why this is important](#)

eSafety FOI 24231
Document 16/60 

Hello,


Thank you for your report. Our team is now investigating this matter. We appreciate your patience, cooperation, and will follow up as soon as possible.

Thanks,

Twitter

[Help](#) | [Privacy](#)

X Corp. 1355 Market Street, Suite 900 San Francisco, CA 94103

eSafety FOI 24231 
Document 17/60

Hello,


We have received your request and will get back to you as soon as possible. Thanks for your patience!

X Support

2024-03-01 04:44

ref:00DA0000000K0A8.500Vp000003aAQZ:ref

You don't often get email from support@twitter.com. [Learn why this is important](#)

eSafety FOI 24231 
Document 18/60

This is an AUTOMATED response from our support system.

Hello,

This automated response confirms receipt of your request to Twitter to remove content regarding user(s) @BillboardChris (first user identified in your request).

Your request has been escalated to the appropriate team and will be reviewed and responded to as soon as possible. Please refrain from submitting duplicate requests as this may slow down the assessment of your original request.

We will contact you at the law enforcement / government email address you have provided should we require more information. If you have more information to provide or if the situation has changed, please reply directly to this email. Please include all information in the body of your email, as our system removes attachments for security purposes..


Thanks,

Twitter

Your case number: #0363820601

ref:00DA0000000K0A8.500Vp000004L10m:ref

You don't often get email from support@twitter.com. [Learn why this is important](#)

eSafety FOI 24231 
Document 19/60

Hello,

Thanks once again for your request. We are looking into this request, as a matter of priority. We appreciate your patience, cooperation. We will follow up on this as soon as possible.

Thanks,

X

[Help](#) | [Privacy](#)

X Corp. 1355 Market Street, Suite 900 San Francisco, CA 94103

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

From: Twitter

Received: Wed Mar 06 2024 04:26:10 GMT+1100 (Australian Eastern Daylight Time)

To: CA Escalations

Subject: Case# 0361920761: Complaint alert for cyber abuse report - NOT-2024-00220 [SEC=OFFICIAL:Sensitive]
CRM:0100541 [ref:!00DA00K0A8.!500Vp03aAQZ:ref]



Hello,

Thanks for reaching out. We reviewed the reported content, and didn't find it to be in violation of the [Twitter rules](#). In this case, no action will be taken at this time.

If you have further concerns about intellectual property, your privacy, or your personal safety, the following guidelines can be of assistance:

Intellectual property

- Report any [copyright infringement](#) by using our [intellectual property issues form](#).
- If the content is hosted on a third-party website, make sure to contact that website's support team to report it.

Privacy & non-consensual nudity

Report violations of your privacy, including any images or videos that depict you without your permission by using our [private information form](#).

Personal safety

- If you feel that you're in danger, we recommend contacting your local law enforcement as soon as possible.
- Take screenshots and document any Tweets that you believe indicate a threat.
- Law enforcement authorities should review our [law enforcement guidelines](#) when seeking information about a Twitter account.

If you have new information that you feel is important to this investigation, please reply to this email with as much detail as you can. We appreciate your help, and hope you'll continue to report anything that you believe may violate our rules and policies.

Thank you,

Twitter

[Help](#) | [Privacy](#)

X Corp. 1355 Market Street, Suite 900 San Francisco, CA 94103



ref:!00DA00K0A8.!500Vp03aAQZ:ref

Complaint alert to be sent to X via X's online portal under Section 88 of the Online Safety Act 2021

Administrative

- eSafety references: ACA-2024-0496095 / NOT-2024-00220
- The X post is available at: <https://twitter.com/BillboardChris/status/1762620001696244063>
- The end user is @BillboardChris.
- The "legal basis" for the removal request will be s 88 of the *Online Safety Act*.
- The "Issue type" will be nominated as "Hateful conduct".

Substance

(This will be inserted in the "Please provide any additional details" section.)

eSafety reference: NOT-2024-00220

The X post is available at: <https://twitter.com/BillboardChris/status/1762620001696244063>

s 47E(d), s 47F
[Redacted]

[Redacted]

[Redacted]


[Redacted]

[Redacted]

[Redacted]

[Redacted]

s 47E(d), s 47F



From: s 22
Sent: Wednesday, 13 March 2024 4:04 PM
To: s 22
Subject: RE: For review: s88 & SOR [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Hi s 22

I have accepted the changes and made a slight amendment to the assessment section of the Removal Notice.

Thanks,

s
22

From: s 22 @esafety.gov.au>
Sent: Tuesday, March 12, 2024 12:46 PM
To: s 22 @eSafety.gov.au>
Subject: RE: For review: s88 & SOR [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Hi s 22

I've made changes to the Statement of Reasons. See particularly some of the assessment I have added.

Have a look and let me know if you agree. If so, we will need to make a couple of changes to the Removal Notice.

Thanks

s 22

From: s 22 @eSafety.gov.au>
Sent: Monday, March 11, 2024 4:16 PM
To: s 22 @esafety.gov.au>
Subject: For review: s88 & SOR [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Hi s 22

For your review:

 [ACA-2024-0496095 - Statement of Reasons - s88 Removal notice to X Corp.docx](#)

 [ACA-2024-0496095 - Section 88 Removal notice to X Corp.docx](#)

Thanks,

s
22

From: Cyber Abuse
Sent: Friday, 22 March 2024 10:46 AM
To: s 22
Cc: s 22
Subject: New approval record: APP-2024-0018 CRM:0100601

Hi s 22 ,

Record URL:
<https://case.crme.case.mgmt.local:443/main.aspx?etc=8&id=e2c6ddd2-1321-ee11-a318-0050569455e4&histKey=625601780&newWindow=true&pagetype=entityrecord>

Record Number:
APP-2024-0018

Regarding Record Number:
ACA-2024-0496095

Requested by:
s 22

Recommended action:
CB/ACA Removal Notice

Details:
s88 notice to X

From: s 22
Sent: Friday, 22 March 2024 11:17 AM
To: s 22
Cc: Cyber Abuse
Subject: RE: LS-324: Review of s 88 notice [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]
Attachments: ACA-2024-0496095 - Section 88 Statement of Reasons.pdf

**OFFICIAL: Sensitive
Legal Privilege**

Hi s

Find attached signed statement of reasons.

Thanks
s 22

From: s 22
Sent: Friday, March 22, 2024 10:17 AM
To: s 22 @eSafety.gov.au>
Subject: RE: LS-324: Review of s 88 notice [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]

**OFFICIAL: Sensitive
Legal Privilege**

Hi s

Signed s 88 notice attached.

This can now be sent.

Thanks
s 22

From: s 22 @eSafety.gov.au>
Sent: Thursday, March 21, 2024 12:39 PM
To: s 22 @esafety.gov.au>
Subject: RE: LS-324: Review of s 88 notice [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]

**OFFICIAL: Sensitive
Legal Privilege**

Hi s 22

I have accepted all but one change (in the Notice) which incorrectly states that the complainant s 47F

The rest of the Notice and SOR looks good to me.

Thanks,

s 22

From: s 22 <[REDACTED]@esafety.gov.au>
Sent: Thursday, March 21, 2024 9:19 AM
To: s 22 <[REDACTED]@eSafety.gov.au>
Subject: FW: LS-324: Review of s 88 notice [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]

**OFFICIAL: Sensitive
Legal Privilege**

Hi s [REDACTED]

See below and attached from legal.

Can you let me know if you are happy with their changes (and if so accept them), then I will sign.

Thanks

s 22

s 42







22 March 2024

X Corp

Submitted via X's Legal Request submission site: <https://t.co/lr>

Our Reference: **ACA-2024-0496095**

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

(Under section 88 of the *Online Safety Act 2021* (Cth))

I am a delegate of the eSafety Commissioner for the purposes of section 88 of the *Online Safety Act 2021* (Cth) (**the Act**).

Please see enclosed a removal notice given to you under section 88 of the Act (**Notice**). The Notice requires you to take all reasonable steps to ensure the removal of the material from your service within **24 hours** of being given the Notice.

Background

On 29 February 2024, the eSafety Commissioner received a complaint under section 36 of the Act (**the Complaint**) about cyber abuse material targeted at an Australian adult that is available on a service that you provide (**the Material**).

s 47E(d), s 47F



s 47E(d), s 47F

I am satisfied that:

- a) the Material is provided on a social media service;
- b) the Material was the subject of a complaint that was made to the provider of the service;
- c) the Material was not removed from the 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 36 of the Act about the Material; and
- e) the Material is cyber-abuse material targeted at an Australian adult 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 taken all reasonable steps to ensure the removal of the Material in compliance with the Notice. Failure to comply with the Notice may result in compliance or enforcement action being taken against you without further 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 91 of the Act, you must comply with a requirement under a removal notice given under section 88 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, Adult Cyber Abuse Section (EL2)
Delegate of the eSafety Commissioner

Enclosed: Notice under section 88 of the Act

Information Sheet



REMOVAL NOTICE TO REMOVE CYBER-ABUSE MATERIAL FROM YOUR SERVICE

Under section 88 of the *Online Safety Act 2021* (Cth)

To: X Corp

Submitted via X's Legal Request submission site: <https://t.co/lr>

I am a delegate of the eSafety Commissioner for the purposes of section 88 of the *Online Safety Act 2021* (Cth) (**the Act**).

This removal notice is given to you under section 88 of the Act and requires you to take all reasonable steps to ensure the removal of 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 91 of the Act provides that a person must comply with a requirement under a removal notice given under section 88 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 by a body corporate.

Date: 22 March 2024

s 22


Manager, Adult Cyber Abuse (EL2)
Delegate of the eSafety Commissioner



Schedule A – The Material for removal

<https://twitter.com/BillboardChris/status/1762620001696244063>

s 47E(d), s 47F

A large, solid grey rectangular box covers the majority of the page, indicating that the content has been redacted.



Statement of Reasons

Date	22 March 2024
Decision	To give the attached removal notice to X Corp, under section 88 of the <i>Online Safety Act 2021</i> (Cth)
Decision-maker	s 22 [redacted] Acting Manager, Adult Cyber Abuse
Case reference	ACA-2024-0496095

Introduction

1. I am a delegate of the eSafety Commissioner (eSafety) for the purposes of section 88 of the *Online Safety Act 2021* (Cth) (**the Act**).
2. This statement sets out my reasons to give the attached removal notice to X Corp under section 88 of the Act (**the Notice**). The Notice requires X Corp to take all reasonable steps to ensure the removal of the material specified in the notice as cyber-abuse material targeted at an Australian adult (**the Material**).

Legislative framework

3. Part 7 of the Act establishes a scheme for the removal of cyber-abuse material targeted at an Australian adult from a social media service, relevant electronic service, designated internet service and hosting service.
4. Section 88 provides eSafety with the power, if certain requirements are met, to give a removal notice to a provider of a social media service, relevant electronic service or designated internet service requiring them to take all reasonable steps to remove adult cyber-abuse material from the service.

Decision

5. I have decided to give the Notice to X Corp under section 88 of the Act based on the Material and the reasons below.

Material relied upon to make decision

6. I have taken the following information into account in making my decision:
 - a. The complaint made under section 36(1) of the Act by s 47E(d), s 47F, the Complainant (**the eSafety Complaint**).
 - b. The following information ascertained by eSafety in handling the eSafety Complaint:
 - i. On 28 February 2024, the Complainant made a report to X Corp (**the Provider Complaint**).

- ii. On 29 February 2024 at 11:35am, eSafety received the eSafety Complaint

s 47E(d), s 47F

s 47E(d), s 47F

7. I have taken the following documents into account in making my decision:
- The Material, as described above and attached at **Appendix B**;
 - eSafety's Adult Cyber Abuse Scheme Regulatory Guidance (December 2023); and
 - The relevant sections of the Act which are extracted in **Appendix A**.


Reasons for decision

8. I am satisfied that the requirements for giving a removal notice under section 88 of the Act have been met. Having considered the above documents and information, I am satisfied that:
- The Material is provided on X Corp's X service, which is a social media service, within the meaning of section 13 of the Act. This is because X is an electronic service that has the sole or primary purpose of enabling online social interaction between two or more end-users, allows end-users to link to and interact with other end-users, and allows end-users to post material to the service.
 - The Material is provided on the service within the meaning of section 10 of the Act because the Material is accessible to, or delivered to, one or more other end-users using the service through a hyperlink or URL that is accessible to the public (<https://twitter.com/BillboardChris/status/1762620001696244063>).
 - The Material was the subject of the Provider Complaint, which was made to the provider of the service. The Complainant submitted a report to X Corp about the Material on 28 February 2024. A screenshot of the Provider Complaint was provided to eSafety on 8 March 2024 (see Appendix C).
 - The Material the subject of the Provider Complaint was not removed from the service within 48 hours of the Provider Complaint.
 - On 1 March 2024, eSafety sent an informal complaint alert to X Corp via email at AUEScalations@twitter.com. On 6 March 2024, X Corp responded to eSafety's request. X Corp informed eSafety that they reviewed the reported

content and did not find it to be in violation of their policies. They stated that because of that decision, no action would be taken.

- f. The Material is available at the same location on the service to date.

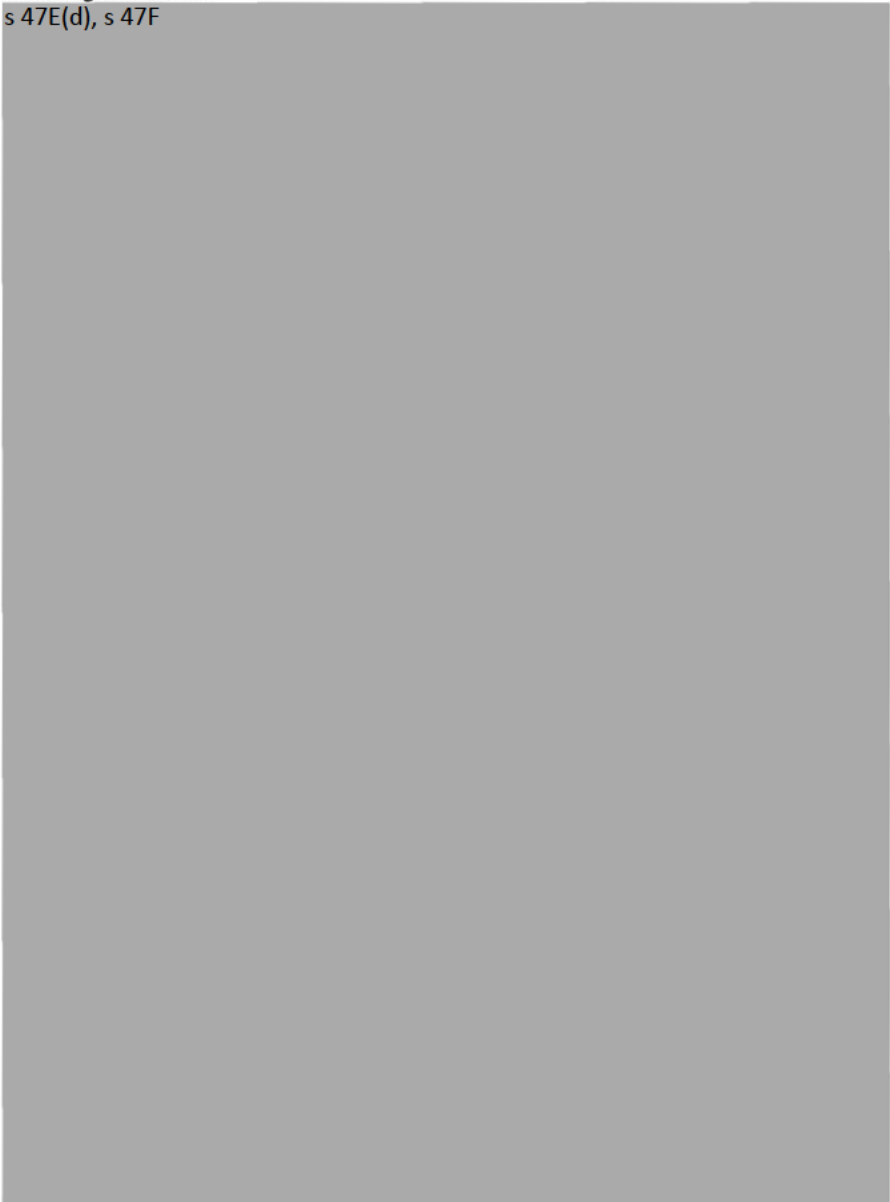
s 47E(d), s 47F



- h. The Material is cyber-abuse material targeted at an Australian adult within the meaning of section 7 of the Act because:

- i. The Material is provided on a social media service.
- ii. An ordinary reasonable person would conclude that it is likely that the Material was intended to have an effect of causing 'serious harm', as defined in section 5 of the Act, to a particular Australian adult based on the following reasons:

s 47E(d), s 47F



s 47E(d), s 47F



iii. An ordinary reasonable person in the position of the Australian adult would regard the Material as being, in all the circumstances, offensive based on the following:

- o The Material exceed the standards of morality, decency and propriety generally accepted by reasonable adults. Although, it is understood that society permits a degree of online disagreement, particularly where it relates to political or topical concerns, s 47E(d), s 47F



The Material therefore does not meet these standards;

- o The Material does not have any apparent literary, artistic or educational merit;
- o The Material is in the character of a social media post, and is not of medical, legal or scientific character; and
- o I consider that while an ordinary reasonable person would consider the Material offensive regardless of whether s



47E
(d),
s
47F

Conclusion

The reasons provided above are the reasons for my decision to give the Notice under section 88 of the Act to X Corp.

Signed:

s 22

Manager, Adult Cyber Abuse Section (EL2)
Delegate of the eSafety Commissioner

Date: 22 March 2024

Appendix A – Extracts of relevant sections of the *Online Safety Act 2021 (Cth)*

7 Cyber-abuse material targeted at an Australian adult

(1) For the purposes of this Act, if material satisfies the following conditions:

- (a) the material is provided on:
 - (i) a social media service; or
 - (ii) a relevant electronic service; or
 - (iii) a designated internet service;
- (b) an ordinary reasonable person would conclude that it is likely that the material was intended to have an effect of causing serious harm to a particular Australian adult;
- (c) an ordinary reasonable person in the position of the Australian adult would regard the material as being, in all the circumstances, menacing, harassing or offensive;
- (d) such other conditions (if any) as are set out in the legislative rules;

then:

- (e) the material is **cyber-abuse material targeted at the Australian adult**, and
- (f) the Australian adult is the **target** of the material.

Note: For **serious harm**, see section 5.

(2) An effect mentioned in paragraph (1)(b) may be:

- (a) a direct result of the material being accessed by, or delivered to, the Australian adult; or
- (b) an indirect result of the material being accessed by, or delivered to, one or more other persons.

8 Determining whether material is offensive

(1) The matters to be taken into account in deciding for the purposes of this Act whether an ordinary reasonable person in the position of a particular Australian adult would regard particular material as being, in all the circumstances, offensive, include:

- (a) the standards of morality, decency and propriety generally accepted by reasonable adults; and
- (b) the literary, artistic or educational merit (if any) of the material; and
- (c) the general character of the material (including whether it is of a medical, legal or scientific character).

(2) If:

- (a) material is provided on:
 - (i) a social media service; or
 - (ii) a relevant electronic service; or
 - (iii) a designated internet service; and
- (b) the material is private sexual material;

then, in deciding for the purposes of this Act whether an ordinary reasonable person in the position of a particular Australian adult would regard the material

as being, in all the circumstances, offensive, regard must be had to whether the subject, or each of the subjects, of the private sexual material gave consent to the material being provided on the service.

(3) Subsection (2) does not limit subsection (1).

36 Complaints about cyber-abuse material

Complaint made by an Australian adult

- (1) If an Australian adult has reason to believe that the adult was or is the target of cyber-abuse material that has been, or is being, provided on:
- (a) a particular social media service; or
 - (b) a particular relevant electronic service; or
 - (c) a particular designated internet service;
- the adult may make a complaint to the Commissioner about the matter.

Complaint made on behalf of an Australian adult

- (2) If:
- (a) a person (the **responsible person**) has reason to believe that cyber-abuse material targeted at an Australian adult has been, or is being, provided on:
 - (i) a particular social media service; or
 - (ii) a particular relevant electronic service; or
 - (iii) a particular designated internet service; and
 - (b) the adult has authorised the responsible person to make a complaint about the matter;
- the responsible person may, on behalf of the adult, make a complaint to the Commissioner about the matter.

Complaint about material that was provided on a service

- (3) If:
- (a) a complaint made by a person under this section concerns material that has been, or is being, provided on:
 - (i) a social media service; or
 - (ii) a relevant electronic service; or
 - (iii) a designated internet service; and
 - (b) the person wants the Commissioner to give the provider of the service a removal notice under section 88 requiring the provider to remove the material from the service;
- the complaint under this section must be accompanied by evidence that the material was the subject of a complaint that was previously made to the provider of the service.
- (4) For the purposes of subsection (3), evidence must be in a form required by the Commissioner.
- (5) If:
- (a) a social media service; or
 - (b) a relevant electronic service; or
 - (c) a designated internet service;

issues a receipt or complaint number to a complainant as part of its ordinary business processes, the Commissioner may require evidence to be in the form of the receipt or complaint number.

(6) If:

- (a) a social media service; or
- (b) a relevant electronic service; or
- (c) a designated internet service;

does not issue a receipt or complaint number to a complainant as part of its ordinary business processes, the Commissioner may require evidence to be:

- (d) in the form of a screen shot; or
- (e) in the form of a statutory declaration; or
- (f) in such other form as the Commissioner specifies.

(7) Subsections (5) and (6) do not limit subsection (4).

(8) A requirement under subsection (4), (5) or (6) is not a legislative instrument.

88 Removal notice given to the provider of a social media service, relevant electronic service or designated internet service

(1) If:

- (a) material is, or has been, provided on:
 - (i) a social media service; or
 - (ii) a relevant electronic service; or
 - (iii) a designated internet service; and
- (b) the Commissioner is satisfied that the material is or was cyber-abuse material targeted at an Australian adult; and
- (c) the material was the subject of a complaint that was made to the provider of the service; and
- (d) if such a complaint was made—the material was not removed from the service within:
 - (i) 48 hours after the complaint was made; or
 - (ii) such longer period as the Commissioner allows; and
- (e) a complaint has been made to the Commissioner under section 36 about the material;

the Commissioner may give the provider of the service a written notice, to be known as a **removal notice**, requiring the provider to:

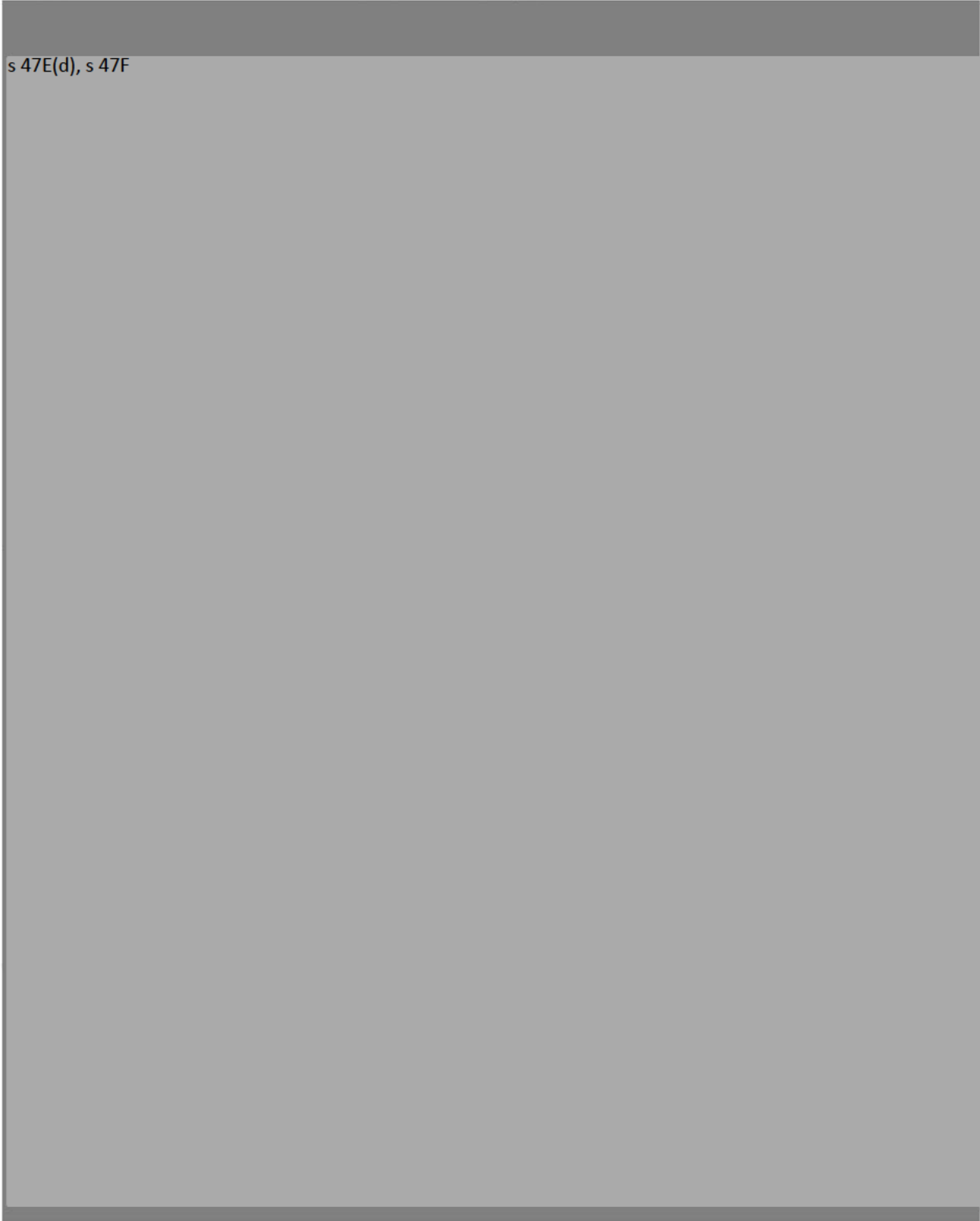
- (f) take all reasonable steps to ensure the removal of the material from the service; and
 - (g) do so within:
 - (i) 24 hours after the notice was given to the provider; or
 - (ii) such longer period as the Commissioner allows.
- (2) So far as is reasonably practicable, the material must be identified in the removal notice in a way that is sufficient to enable the provider of the service to comply with the notice.

Notice of refusal to give a removal notice

- (3) If the Commissioner decides to refuse to give a removal notice under subsection (1), the Commissioner must give written notice of the refusal to the person who made the complaint to the Commissioner under section 36.

Appendix B – the Material the subject of the Notice

s 47E(d), s 47F



Appendix C – the Provider Complaint

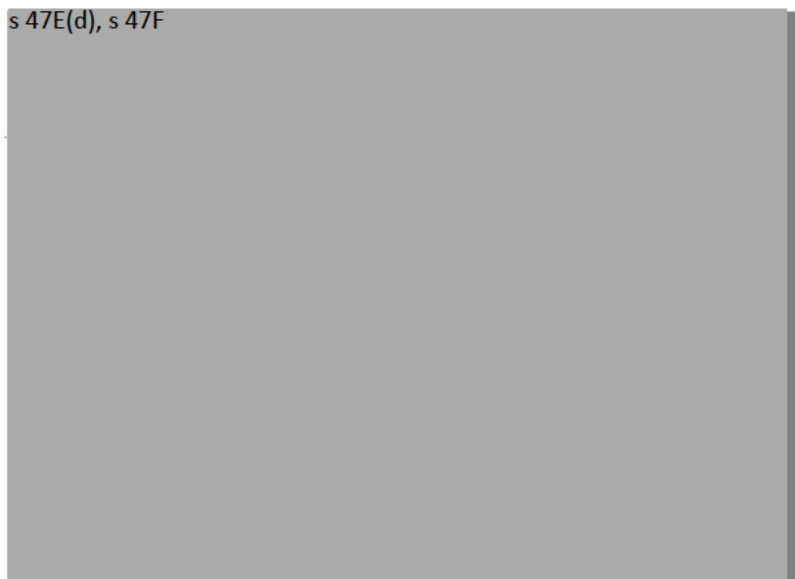
×

Report · February 28, 2024

You submitted a report for hateful conduct

[View Rule](#)

s 47E(d), s 47F



What's next

Our team and technology will review your report. If we find a rule violation, we'll let you know what actions we're taking.

What's our process?

Context matters. We consider the following factors when enforcing our rules (this isn't a complete list):

- Does the reported content target people because of their identity?
- How severe is this violation?
- Was the report submitted by the person being targeted?

Creating duplicate reports will not accelerate our process.

Record URL:

<https://case.crme.case.mgmt.local:443/main.aspx?etc=10075&id=f115f126-dde7-ee11-a320-0050569455e4&histKey=423365448&newWindow=true&pagetype=entityrecord>

Record number:

APP-2024-0018

Approving user:

His 22

Approval to proceed:

Yes

Approval date:

22/03/2024

Approval comment:

Approving this s 88 notice to be sent to X/Twitter.

Regulatory Notice Record URL:

<https://case.crme.case.mgmt.local:443/main.aspx?etc=10124&id=4e737a9f-dde7-ee11-a320-0050569455e4&histKey=423365448&newWindow=true&pagetype=entityrecord>

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

From: no-reply@twitter.com

Received: Fri Mar 22 2024 12:22:25 GMT+1100 (Australian Eastern Daylight Time)

To: Requests

Subject: Access link to Twitter legal request submission system

Hello,

This is an automated response. Please do not reply to this email as it will not be received by our system.

We have received your request to access our online legal request submission system. Please use the following unique link to log into our secure site where you will be able to submit your legal request:

https://legalrequests.twitter.com/forms/access_disclaimer/pwA1quM3QL9NkOba2NWfAWt1jxMHKESJWilvwkn0d%2FE%3D

Access via this unique link will expire on March 22, 2024 at 2:22AM UTC. Should you need to request a new link, please return to our secure site:

<https://legalrequests.twitter.com>

For other questions, please review our Guidelines for Law Enforcement:

<https://t.co/le>

NOTE: Twitter reserves the right to pursue legal remedies against unauthorized access to this system.

Sincerely,
Twitter

From: s 22
Sent: Monday, 25 March 2024 2:50 PM
To: s 47F @twitter.com
Cc: Cyber Abuse
Subject: Removal Notice - NOT-2024-00345 [SEC=OFFICIAL:Sensitive]
Attachments: ACA-2024-0496095 - Section 88 Removal notice to X Corp.pdf

OFFICIAL: Sensitive

Dear s 47F

On 22 March, eSafety sent X a Removal Notice under section 88 of the *Online Safety Act 2021*.

That Notice related to the following post, which remains online:
<https://twitter.com/BillboardChris/status/1762620001696244063>.

We have attached the notice for your reference. As you will see, X were required to take all reasonable steps to ensure the removal of the material within 24 hours of being given the Notice.

On 22 March at 2.06pm (AEDT), eSafety received an email from X advising, amongst other things, that: "Our team is now investigating the matter."

To date, we have not received any further correspondence from X. I am writing to follow this up on your end, as we are now at about the 72-hour mark since X was given the Notice.

s 22
Manager (A/g) – Adult Cyber Abuse | Investigations



eSafety acknowledges all First Nations people for their continuing care of everything Country encompasses — land, waters and community. We pay our respects to First Nations people, and to Elders past, present and future.

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

From: Twitter

Received: Tue Mar 26 2024 10:00:49 GMT+1100 (Australian Eastern Daylight Time)

To: Requests

Subject: Case# 0363820601: Twitter Receipt of Content Removal Request - Office of the eSafety Commissioner [ref:!00DA00K0A8.!500Vp04L10m:ref]

You don't often get email from support@twitter.com. [Learn why this is important](#)



Hello,

The following reported content has been withheld in Australia

<https://x.com/BillboardChris/status/1762620001696244063>

Thanks,

X

[Help](#) | [Privacy](#)

X Corp. 1355 Market Street, Suite 900 San Francisco, CA 94103



ref:!00DA00K0A8.!500Vp04L10m:ref

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

From: s 47F
Received: Tue Mar 26 2024 12:22:33 GMT+1100 (Australian Eastern Daylight Time)
To: s 22
Cc: Cyber Abuse; Cyber Abuse
Subject: Re: Removal Notice - NOT-2024-00345 [SEC=OFFICIAL:Sensitive]

You don't often get email from s 47F@x.com. [Learn why this is important](#)

Hi s 22

An update: After additional reviews our teams responded directly in-channel.

Please don't hesitate to let us know if you have further questions, or if it would be helpful to connect.

Kind regards,

s 47F

On Mon, 25 Mar 2024 at 13:19, s 47F@x.com> wrote:

Hi s 22

Thank you. Acknowledging here. Confirming teams are across this case and have sent a follow up response in the interim as well. Please let me know if you have any questions.

Kind regards,

On Mon, Mar 25, 2024 at 12:49 PM s 22@esafety.gov.au> wrote:

OFFICIAL: Sensitive

Dear

On 22 March, eSafety sent X a Removal Notice under section 88 of the *Online Safety Act 2021*.

That Notice related to the following post, which remains online:
<https://twitter.com/BillboardChris/status/1762620001696244063>.

We have attached the notice for your reference. As you will see, X were required to take all reasonable steps to ensure the removal of the material within **24 hours** of being given the Notice.

On 22 March at 2.06pm (AEDT), eSafety received an email from X advising, amongst other things, that: “Our team is now investigating the matter.”

To date, we have not received any further correspondence from X. I am writing to follow this up on your end, as we are now at about the 72-hour mark since X was given the Notice.

s 22

Manager (A/g) – Adult Cyber Abuse | Investigations



eSafety acknowledges all First Nations people for their continuing care of everything Country encompasses — land, waters and community. We pay our respects to First Nations people, and to Elders past, present and future.

NOTICE: This email message is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message.



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

From: s 22 [@esafety.gov.au](mailto:s22@esafety.gov.au)

Received: Tue Mar 26 2024 12:39:24 GMT+1100 (Australian Eastern Daylight Time)

To: Cyber Abuse; Cyber Abuse

Cc: s 22 Media OeSC

Subject: ATTN: Social media post re: notice ACA2024-0496095 [SEC=OFFICIAL]

OFFICIAL

Hi team, hope you're well. We've seen the attached post from [Billboard Chris](#), which is regarding a recent notice ES sent to X to take down the offending Tweet.



We wanted to let you know, as this person has a sizeable following (396.5K people) and an active presence on Twitter/X.

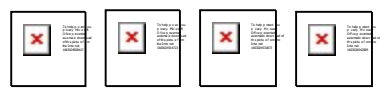
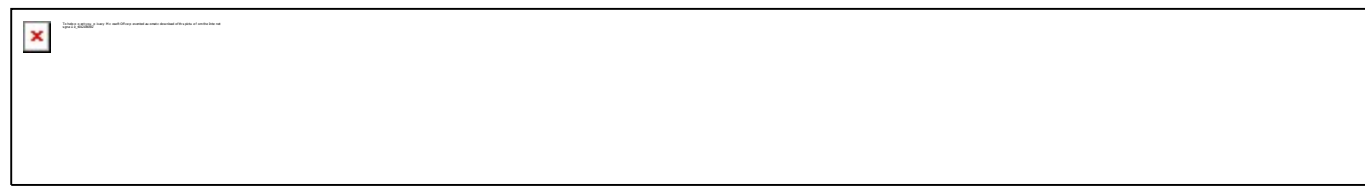
We won't be taking any action unless requested, as the original Tweet has already been removed (see 3rd screenshot).

Thanks,

s 22


Social Media and Digital Content Producer

 s 22 



eSafety acknowledges all First Nations people for their continuing care of everything Country encompasses — land, waters and community. We pay our respects to First Nations people, and to Elders past, present and future.

From: § 22
Sent: Tuesday, 26 March 2024 1:29 PM
To: § 22
Subject: RE: ATTN: Social media post re: notice ACA2024-0496095 CRM:0127690 [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Sorry – nevermind, I see you already sent it – my bad!

From: § 22
Sent: Tuesday, March 26, 2024 1:28 PM
To: § 22 <§ 22@esafety.gov.au>
Subject: RE: ATTN: Social media post re: notice ACA2024-0496095 CRM:0127690 [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Hi § 22

Can you please send through the attachment that § 22 sent through? I assume the post re our notice is not geoblocked but I couldn't see it when I looked at the x account.

Thanks

§ 22

From: § 22 <§ 22@esafety.gov.au>
Sent: Tuesday, March 26, 2024 1:01 PM
To: § 22 <§ 22@esafety.gov.au>
Cc: Cyber Abuse <cyberabuse@esafety.gov.au>; § 22 <§ 22@eSafety.gov.au>; § 22 <§ 22@esafety.gov.au>; § 22 <§ 22@eSafety.gov.au>; Media OeSC <media@esafety.gov.au>; § 22 <§ 22@eSafety.gov.au>
Subject: RE: ATTN: Social media post re: notice ACA2024-0496095 CRM:0127690 [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Hi § 22

Thanks for this. I have also CC'ed in § 22 and § 22 for situational awareness.

The material has not actually been removed. It has been "geo-blocked", which means that X users in Australia will not be able to see it.

Users elsewhere, however, or those using a VPN, can still see the material.

Kind regards

§ 22
Manager (A/g) – Adult Cyber Abuse | Investigations



eSafety acknowledges all First Nations people for their continuing care of everything Country encompasses — land, waters and community. We pay our respects to First Nations people, and to Elders past, present and future.

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

From: s 22 [@esafety.gov.au](mailto:s22@esafety.gov.au)
Received: Tue Mar 26 2024 12:39:24 GMT+1100 (Australian Eastern Daylight Time)
To: Cyber Abuse; Cyber Abuse
Cc: s 22 ; s 22 ; Media OeSC
Subject: ATTN: Social media post re: notice ACA2024-0496095 [SEC=OFFICIAL]

OFFICIAL

Hi team, hope you're well. We've seen the attached post from [Billboard Chris](#), which is regarding a recent notice ES sent to X to take down the offending Tweet.

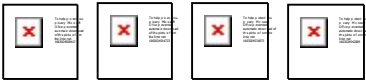
We wanted to let you know, as this person has a sizeable following (396.5K people) and an active presence on Twitter/X.

We won't be taking any action unless requested, as the original Tweet has already been removed (see 3rd screenshot).

Thanks,
s 22


Social Media and Digital Content Producer

 s 22



eSafety acknowledges all First Nations people for their continuing care of everything Country encompasses — land, waters and community. We pay our respects to First Nations people, and to Elders past, present and future.



The Australian government has ordered my tweet below to be taken down. @X can face a fine of up to \$782,500 AUD if they do not comply.

I don't know if any civil action or fine can be directed at me under that law.

A delegate for the eSafety Commissioner says "an ordinary...

x.com/billboardchris...

Show more

<p>Received earlier suggesting you to remove cyber-stalking material forwarded to us. Distribution shall then your server.</p> <p>Section 88 of the Online Safety Act 2021 (OSA)</p> <p>14(1) A delegate of the eSafety Commissioner for the Director of section 88 of the Online Safety Act 2021 (OSA) (the Act).</p> <p>Please not associate if removed notice shall to the website section 88 of the Act (Section 88). The notice requires you to take all reasonable steps to ensure the removal of the material from your website within 24 hours of being given the notice.</p> <p>Section 88</p> <p>On 29 February 2024, the eSafety Commissioner received a complaint under section 88 of the Act. The Commissioner found that the material was removed at an hour after which for a duration of a month. The complaint was resolved.</p> <p>The adult cyber-stalking material</p> <p>The material is available at:</p> <p>https://www.youtube.com/watch?v=3D600000000000000000</p> <p>Manager, Adult Cyber Abuse Section (EUS) Delegate of the eSafety Commissioner</p> <p>Subject: Notice under section 88 of the Act</p> <p>Administrative Issues</p>	<p>Section 88 of the Act requires you to remove the material from the website within 24 hours of being given the notice or within such longer period as the eSafety Commissioner may direct by written notice.</p> <p>Section 88 of the Act</p> <p>14(1) A delegate of the eSafety Commissioner for the Director of section 88 of the Online Safety Act 2021 (OSA) (the Act).</p> <p>Please not associate if removed notice shall to the website section 88 of the Act (Section 88). The notice requires you to take all reasonable steps to ensure the removal of the material from your website within 24 hours of being given the notice.</p> <p>Section 88</p> <p>On 29 February 2024, the eSafety Commissioner received a complaint under section 88 of the Act. The Commissioner found that the material was removed at an hour after which for a duration of a month. The complaint was resolved.</p> <p>The adult cyber-stalking material</p> <p>The material is available at:</p> <p>https://www.youtube.com/watch?v=3D600000000000000000</p> <p>Manager, Adult Cyber Abuse Section (EUS) Delegate of the eSafety Commissioner</p> <p>Subject: Notice under section 88 of the Act</p> <p>Administrative Issues</p>
<p>Section 88 of the Act</p> <p>14(1) A delegate of the eSafety Commissioner for the Director of section 88 of the Online Safety Act 2021 (OSA) (the Act).</p> <p>Please not associate if removed notice shall to the website section 88 of the Act (Section 88). The notice requires you to take all reasonable steps to ensure the removal of the material from your website within 24 hours of being given the notice.</p> <p>Section 88</p> <p>On 29 February 2024, the eSafety Commissioner received a complaint under section 88 of the Act. The Commissioner found that the material was removed at an hour after which for a duration of a month. The complaint was resolved.</p> <p>The adult cyber-stalking material</p> <p>The material is available at:</p> <p>https://www.youtube.com/watch?v=3D600000000000000000</p> <p>Manager, Adult Cyber Abuse Section (EUS) Delegate of the eSafety Commissioner</p> <p>Subject: Notice under section 88 of the Act</p> <p>Administrative Issues</p>	<p>Section 88 of the Act</p> <p>14(1) A delegate of the eSafety Commissioner for the Director of section 88 of the Online Safety Act 2021 (OSA) (the Act).</p> <p>Please not associate if removed notice shall to the website section 88 of the Act (Section 88). The notice requires you to take all reasonable steps to ensure the removal of the material from your website within 24 hours of being given the notice or within such longer period as the eSafety Commissioner may direct by written notice.</p> <p>Section 88 of the Act</p> <p>14(1) A delegate of the eSafety Commissioner for the Director of section 88 of the Online Safety Act 2021 (OSA) (the Act).</p> <p>Please not associate if removed notice shall to the website section 88 of the Act (Section 88). The notice requires you to take all reasonable steps to ensure the removal of the material from your website within 24 hours of being given the notice.</p> <p>Section 88</p> <p>On 29 February 2024, the eSafety Commissioner received a complaint under section 88 of the Act. The Commissioner found that the material was removed at an hour after which for a duration of a month. The complaint was resolved.</p> <p>The adult cyber-stalking material</p> <p>The material is available at:</p> <p>https://www.youtube.com/watch?v=3D600000000000000000</p> <p>Manager, Adult Cyber Abuse Section (EUS) Delegate of the eSafety Commissioner</p> <p>Subject: Notice under section 88 of the Act</p> <p>Administrative Issues</p>

This post is unavailable.

15 38 97 7

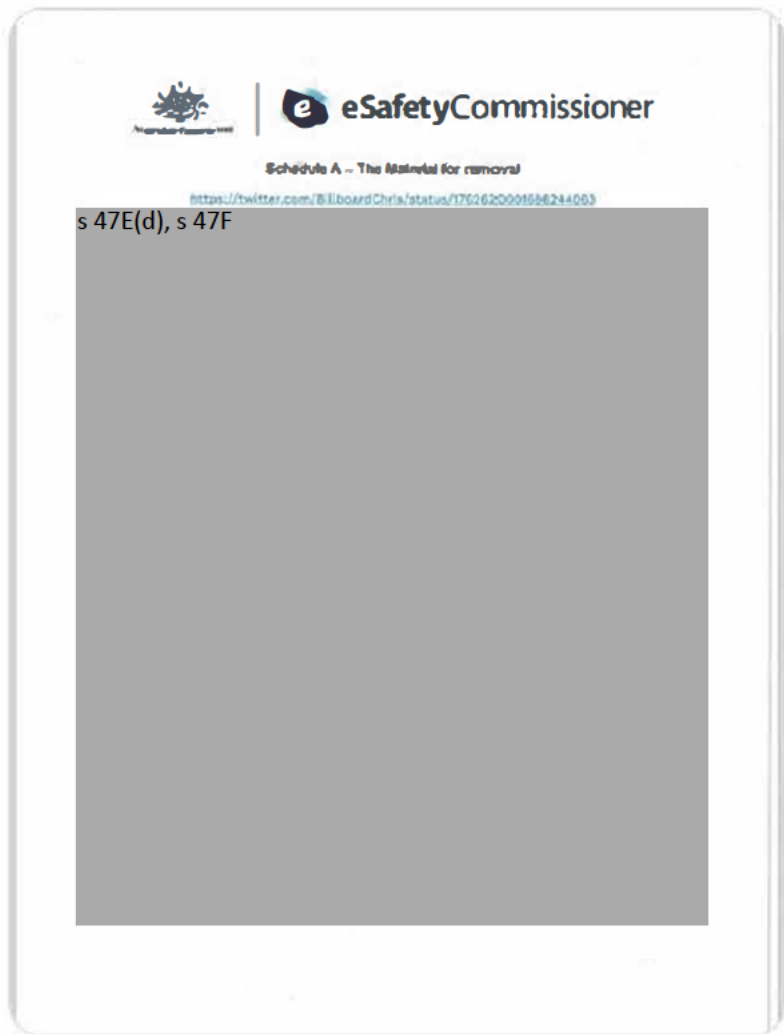
Post your reply

Reply



Billboard Chris 🇨🇦 🇺🇸 🟩 @BillboardChris · 5m

Here's the last page of the Australian government's correspondence.



1 6 25 833

s 22

26/03 10:03 am

eSafety FOI

Document 38/60

s 22

s 22

- X has geoblocked the post re

s 47F

matter

@

REPLY REPLY ALL FORWARD SAVE ACTION EMAIL CONTENT PROCESS CONVERT TO EMAIL A LINK

eSafety FOI 24231 Document 39/60

E-MAIL: INFORMATION
New adult cyber abuse complaint: ACA-2024-...

Owner* s 22 Date Sent/Received 29/02/2024 11:30 AM

E-mail

From: noreply To: Cyber Abuse; Cyber Abuse

Cc: Bcc: --

Subject: New adult cyber abuse complaint: ACA-2024-0496095 [SEC=OFFICIAL:Sensitive]

Classification+ [SEC=OFFICIAL:Sensitive] Regarding ACA-2024-0496095

The email below might contain script or content that is potentially harmful and has been blocked. See the full content.

Receipt number: ACA-2024-0496095.

Attachments

File Name ↑	File Size (Bytes)
Complaint Content.pdf	190,407

Status Reason Received
Activity Status Received

Read only

APPROVAL : INFORMATION
CB/ACA Removal Notice. Approved (22/03/20... ☰

Offline Approval <input type="checkbox"/>	Recommending User s 22	Approving User s 22	Activity Status Completed
--	---------------------------	------------------------	------------------------------

General

Regarding *
ACA-2024-0496095

Recipient

Platform/Provider Twitter	End User --
------------------------------	----------------

Recommendation

Recommending User *	Recommended Action *	Recommendation Date *
s 22	CB/ACA Removal Notice	22/03/2024

Details +
s88 notice to X

Authorisation

Approving User * s 22	Designation EL2
Approval to proceed Yes	Approval Date 22/03/2024
Approval Comment Approving this s 88 notice to be sent to X/Twitter.	

NOTES

Enter a note

No Notes found.

General

Platform Type *
DIS

Platform *
Dailymail.co.uk

Platform Name (Unqualified)
--

CB/ACA Complaint *
ACA-2024-0496095

Owner *
s 22

Notice issued?
No

Complainant appealed decision not to issue notice
No

NOTES

Enter a note

No Notes found.

Platform information

Have you already reported the content? *
No

Social Media Username
--

Respondent Username
--

Date Reported
--

Please provide an explanation on why you have not reported the content
--

We will need to see evidence that you complained to the platform about cyberbullying material.

Content Still Online?
Yes

Please provide the website URL where we can see the material
--

Do you have the complaint number or reference number from your complaint to the Platform?
No

Receipt number or Complaint number
--



Complaint Categories

Name ↑	Source Type
Defamation	ACA

Username ↑	Platform	Contact	Created On
No Platform Username records found.			

Complained Locators

URL ↑	Type
s 47E(d), s 47F	Complained

Related Capture Requests

Number	Capture Ty...	Progress	Complaint alert	Removal Notice	Serious cyberbullying	Serious cyber abuse	Created On ↓
No data available.							

System

Active

Enter a note

06/03/2024 0426 - Response from X (0361920761)



"We reviewed the reported content, and didn't find it to be in violation of the Twitter rules. In this case, no action will be taken at this time."

s 22 [redacted] 7/03/2024 10:42 AM

01/03/2024 1544 - Informal complaint alert sent to X via email (0361920761)

<https://twitter.com/BillboardChris/status/1762620001696244063>

@ Escalation to X - Hateful conduct & sensitive media - NOT-2024-00220.docx

s 22 [redacted] 1/03/2024 4:06 PM

REGULATORY NOTICE : C3/ACA
NOT-2024-00220

General

Name
NOT-2024-00220

Owner
 s 22

Record Status
Finalised

Notice Type
Complaint Alert

Type
Informal e.g. ToS breaches

Regarding

Approval
 --

Complaint
ACA-2024-0496095

Date Sent
1/03/2024 3:44 PM

Due Date
2/03/2024 3:44 PM

Method Sent
Email

Delivery Id
0361920761

ACTIVITIES NOTES

All | Add Phone Call | Add Task

	Twitter Case# 0361920761: Complaint alert for cyber abuse report - NOT-2024-00220 [SEC=OFFICIAL:Sensitive] CRM:0100541 [ref.:00DA00K0A8.1500Vp03aAQZ:ref] 11/03/2024 3:02 PM
	CA Escalations Complaint alert for cyber abuse report - NOT-2024-00220 [SEC=OFFICIAL:Sensitive] CRM:0100541 11/03/2024 3:02 PM
	Cyber Abuse ACTION REQUIRED: Overdue Complaint Alert NOT-2024-00220 CRM:0052286 4/03/2024 1:23 PM
	Cyber Abuse ACTION REQUIRED: Overdue Complaint Alert NOT-2024-00220 CRM:0052286 3/03/2024 8:11 AM

Subjects

Provider Twitter	End User Contact --	School --
----------------------------	------------------------	--------------

Related Capture Requests

Capture Requests

Number	Capture Ty...	Progress	Complaint alert	Removal Notice	Serious cyberbullying	Serious cyber abuse	Created On
No data available.							

Action(s) and Outcome(s)

Name ↑	Details	Action Date	Outcome	Created On
Complaint alert sent		1/03/2024 3:44 PM	Response received	1/03/2024 3:45 PM
Response received	Material not removed	6/03/2024 4:26 AM	Material not removed	7/03/2024 10:43 AM

Response

Response Received
Yes

Date Response Received
6/03/2024 4:26 AM

Response Time (Hrs)
108.7

Responded within timeframe
No

Removal

Material Removed
 --

Date Material Removed
 --

Notional timeframe for material removal (Hrs)
 --

Material removed within timeframe?
No

Account Removed
No

Date Account Removed
 --

Notional timeframe for account removal (Hrs)
 --

Removal Identified By
 --

Reason Provided for Non-Removal
No violation found by X

Related Complaints

Enter a note

26/03/2024 1000 - Email from X - Material geoblocked

"Hello,

The following reported content has been withheld in Australia

<https://x.com/BillboardChris/status/1762620001696244063>

Thanks,

X"

26/03/2024 1004 - Investigator checked URL, material geoblocked

s 22 - 26/03/2024 11:35 AM

25/03/2024 1907 - Email from X - Pending outcome

×

"Hello,

Thanks once again for your request. We are looking into this request, as a matter of priority. We appreciate your patience, cooperation. We will follow up on this as soon as possible.

Thanks,

X"

s 22 - 26/03/2024 11:34 AM

25/03/2024 - File note - No response from X re formal notice

A/EL2^s advised he will follow up with s 47F at X

s 22 - 26/03/2024 11:34 AM

22/03/2024 1235 - Removal notice sent to X via legal request form (0363820601)

<https://twitter.com/BillboardChris/status/1762620001696244063>

s 22 - 22/03/2024 12:39 PM

REGULATORY NOTICE : CB/ACA NOT-2024-00345

General

Name
NOT-2024-00345

Owner
§ 22

Record Status
Finalised

Notice Type
Removal Notice

Type
Removal notice given to the provider of a social media service, relevant electronic service or designated internet service

Regarding
Approval
CB/ACA Removal Notice. Approved (22/03/2024)

Complaint
ACA-2024-0496095

Date Sent
22/03/2024 12:35 PM

Method Sent
Provider online form

Due Date
23/03/2024 12:35 PM

Delivery Id
0363820601

ACTIVITIES NOTES

All Add Phone Call Add Task

Twitter	Case# 0363820601: Twitter Receipt of Content Removal Request - Office of the eSafety Commissioner [ref:00DA00K0A8:1500Vp04L10mref]	28/03/2024 10:38 AM
§ 47F	Re: Removal Notice - NOT-2024-00345 [SEC=OFFICIAL:Sensitive]	26/03/2024 12:55 PM
§ 47F	Re: Removal Notice - NOT-2024-00345 [SEC=OFFICIAL:Sensitive]	26/03/2024 11:36 AM
Twitter	Case# 0363820601: Twitter Receipt of Content Removal Request - Office of the eSafety Commissioner [ref:00DA00K0A8:1500Vp04L10mref]	26/03/2024 11:32 AM

Subjects

Provider	End User Contact	School
Twitter	--	--

Related Capture Requests

Capture Requests

Number	Capture Ty...	Progress	Complaint alert	Removal Notice	Serious cyberbullying	Serious cyber abuse	Created On
No data available.							

Action(s) and Outcome(s)

Name	Details	Action Date	Outcome	Created On
Complaint alert sent	X ref: 0363820601	22/03/2024 12:35 PM	Response received	22/03/2024 12:37 PM
Identified material removed	02/04/2024 - § 22 advised that Legal did not provide a ...	26/03/2024 10:00 AM	Identified by platform	3/04/2024 10:03 AM
Response received	Material geoblocked	26/03/2024 10:00 AM	All material removed	26/03/2024 11:35 AM

Response

Response Received	Yes	Date Response Received	26/03/2024 10:00 AM
Response Time (Hrs)	93.4	Responded within timeframe	No

Removal

Material Removed	Yes	Date Material Removed	26/03/2024 10:00 AM
Notional timeframe for material removal (Hrs)	93.4	Material removed within timeframe?	No
Account Removed	No	Date Account Removed	--
Notional timeframe for account removal (Hrs)	--		
Removal Identified By	Platform		
Reason Provided for Non-Removal	--		

Compliance

Complied with notice?	Yes
-----------------------	-----

Related Complaints

Active	
--------	--

Twitter

General

Platform Type*
SMS

Platform*
Twitter

Platform Name (Unqualified)
 --

CB/ACA Complaint*
ACA-2024-0496095

Owner*
 s 22

Notice issued?
Yes

NOTES

Enter a note

No Notes found.

Platform information

Have you already reported the content?*

Yes

Social Media Username
 s 47E(d), s 47F

Respondent Username
 --

Date Reported*
28/02/2024

We will need to see evidence that you complained to the platform about cyberbullying material.

Content Still Online?
Yes

Please provide the website URL where we can see the material

--

Do you have the complaint number or reference number from your complaint to the Platform?

No

Receipt number or Complaint number

--

Please provide an explanation on why you have not reported the content

--

Assessment of material

s 47C, s 47E(d), s 47F

Complaint Categories

Name ↑	Source Type
Defamation	ACA
Hate speech	ACA
Nasty comments/name calling	ACA
Offensive/upsetting pictures or videos	ACA

Related Platform Usernames

s 47E(d), s 47F

Complained Locators

URL ↑	Type
https://twitter.com/BiliboardChris/status/176262000169...	Complained
s 47E(d), s 47F	Complained
	Complained
	Complained

Related Capture Requests

Number	Capture Ty...	Progress	Complaint alert	Removal Notice	Serious cyberbullying	Serious cyber abuse	Created On ↓
No data available.							

System

Active

Legal Requests

Your request has been submitted and will be processed as soon as possible.

You will receive a confirmation email that includes a case number from support@twitter.com. Please make sure to check your spam folder if you do not receive the confirmation.

More information for law enforcement is available in our [Guidelines for Law Enforcement](#). More information for civilians is available in our Help Center: [Requesting Twitter Data](#); [Requesting content removal](#).