



EUROPEAN COMMISSION

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Subject: Examination of X (formerly Twitter) practices in relation to EU law

Honourable Member Caspary and Honourable Member Schwab,

Thank you for your letter expressing your concern regarding Elon Musk's statement on X encouraging people to vote for a far-right party in the upcoming German federal elections and the transparency and neutrality of X's algorithm, in particular in relation to Elon Musk's personal account.

We are aware that this particular use of the platform has raised concerns, also in relation to X' compliance with the Digital Services Act (DSA).

At the outset, it is important to stress that anyone, including Mr Musk, is of course entitled to express his or her opinion - a right protected under the Charter of Fundamental Rights.

In the European Union, however, the DSA regulates online platforms' responsibility regarding the amplification of individual views through the design of their service and algorithmic systems.

The DSA prohibits deceptive design of online interfaces, *ia.* through the application of so-called 'dark patterns' or AI. It also obliges very large online platforms to identify and assess systemic risks for civic discourse and democracy, and adopt and enforce effective mitigating measures. It empowers users to identify illegal content. Finally, it obliges platforms to offer maximum transparency on their terms and conditions, content moderation practices and - decisions.

Such transparency is key, since it allows regulators, courts, researchers and civil society to support the Commission in identifying infringements. In this context, you may recall the active role of fact-checkers in the recent Romanian elections, enabled by the Code of Practice against Disinformation, which, combined with the declassification of intelligence

documents, was an important element leading to the decision to open an investigation against TikTok on election integrity.

These DSA provisions are already at the basis of the on-going investigations against X. On 18 December 2023, the Commission opened formal proceedings against X to assess whether it may have breached the DSA, *ia.* relating to the deceptive design of its interface, notably in relation to the ‘blue checks’, risks linked to the dissemination of illegal content such as illegal hate speech and terrorist content, risks for civic discourse and electoral process, its notice and action mechanism, researchers’ access to public data, and its advertising repository.

These proceedings are relevant to the issues you signal; they *ia.* deal with the concern that the boosting of blue check accounts through algorithmic ranking without disclosing this to users impairs their ability to make free and informed decisions about the relevance and noteworthiness of the content they are recommended.

On 12 July 2024, the Commission has informed X of its preliminary findings that X is in breach of the DSA. Since then, X has had the right to have access to the file and provide comments, which are currently being assessed. The Commission is determined to energetically advance with the case and, while respecting due process, come to a conclusion as early as legally possible in the open proceedings.

More generally, the Commission remains steadfast in our commitment to promote and protect democracy across the EU, including to help ensure the integrity of electoral processes. Free and fair elections are the very essence of democratic systems. The Commission fully recognizes the challenges we face, both from outside and within the EU and has significantly strengthened its toolbox to protect democracy and to fight disinformation, information manipulation and foreign interference. While the conduct of elections is the responsibility of Member States, we will look into how we can support national authorities especially in the application of the relevant EU toolbox.

Looking ahead, we are starting the work on the Democracy Shield. It will build on what already exists, identify gaps and pull ideas from all the relevant policies to ensure that we develop a strong Democracy Shield that can respond to emerging challenges, to foreign interference while respecting fundamental rights. We welcome the establishment by the European Parliament of the Special Committee on the Democracy Shield.

We look forward to closely collaborating with you on these important workstreams.

Yours sincerely,

(e-signed)
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