



EUROPEAN COMMISSION

Thierry Breton
Member of the Commission

Brussels, 12 August 2024

Dear Mr Musk,

I am writing to you in the context of recent events in the United Kingdom and in relation to the planned broadcast on your platform X of a live conversation between a US presidential candidate and yourself, which will also be accessible to users in the EU.

I understand that you are currently doing a stress test of the platform. In this context, I am compelled to remind you of the due diligence obligations set out in the Digital Services Act (DSA), as outlined in my previous letter. As the individual entity ultimately controlling a platform with over 300 million users worldwide, of which one third in the EU, that has been designated as a Very Large Online Platform, you have the legal obligation to ensure X's compliance with EU law and in particular the DSA in the EU.

This notably means ensuring, on one hand, that freedom of expression and of information, including media freedom and pluralism, are effectively protected and, on the other hand, that all proportionate and effective mitigation measures are put in place regarding the amplification of harmful content in connection with relevant events, including live streaming, which, if unaddressed, might increase the risk profile of X and generate detrimental effects on civic discourse and public security. This is important against the background of recent examples of public unrest brought about by the amplification of content that promotes hatred, disorder, incitement to violence, or certain instances of disinformation.

It also implies i) informing EU judicial and administrative authorities without undue delay on the measures taken to address their orders against content considered illegal, according to national and/ or EU law, ii) taking timely, diligent, non-arbitrary and objective action upon receipt of notices by users considering certain content illegal, iii) informing users concerning the measures taken upon receipt of the relevant notice, and iv) publicly reporting about content moderation measures.

In this respect, I note that the DSA obligations apply without exceptions or discrimination to the moderation of the whole user community and content of X (including yourself as a user with over 190 million followers) which is accessible to EU users and should be fulfilled in line with the risk-based approach of the DSA, which requires greater due diligence in case of a foreseeable increase of the risk profile.

As you know, formal proceedings are already ongoing against X under the DSA, notably in areas linked to the dissemination of illegal content and the effectiveness of the measures taken to combat disinformation.

As the relevant content is accessible to EU users and being amplified also in our jurisdiction, we cannot exclude potential spillovers in the EU. Therefore, we are monitoring the potential risks in the EU associated with the dissemination of content that may incite violence, hate and racism in conjunction with major political – or societal – events around the world, including debates and interviews in the context of elections.

Let me clarify that any negative effect of illegal content on X in the EU, which could be attributed to the ineffectiveness of the way in which X applies the relevant provisions of the DSA, may be relevant in the context of the ongoing proceedings and of the overall assessment of X's compliance with EU law. This is in line with what has already been done in the recent past, for example in relation to the repercussions and amplification of terrorist content or content that incites violence, hate and racism in the EU, such as in the context of the recent riots in the United Kingdom.

I therefore urge you to promptly ensure the effectiveness of your systems and to report measures taken to my team.

My services and I will be extremely vigilant to any evidence that points to breaches of the DSA and will not hesitate to make full use of our toolbox, including by adopting interim measures, should it be warranted to protect EU citizens from serious harm.

Yours sincerely,

Thierry Breton

Cc: Linda Yaccarino, CEO of X