

First Formal Proceedings Launched by Commission under DSA: X Under Investigation

News

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X, formerly Twitter, has been designated as a Very Large Online Platform (VLOP) under the EU's Digital Services Act (DSA → [eucrim 4/2022, 228-230](#) and [eucrim news of 8 December 2023](#)). As a VLOP, it is required to diligently identify and address systemic risks in its services, promptly notify users of content moderation decisions, avoid deceptive design or manipulation of users, maintain a repository of ads, and provide researchers with effective access to platform data. These obligations have been designed to ensure responsible and transparent practices by online platforms.

The European Commission has now opened its first [formal proceedings](#) under the DSA to assess whether X may have breached the act in areas related to risk management, content moderation, dark patterns, advertising transparency, and data access for researchers.

The Commission decided to open formal infringement proceedings against X based on the results of a preliminary investigation, including an analysis of the risk assessment report submitted by X (in September last year), X's transparency report (published on 3 November 2023), and X's responses to a formal request for information, including the dissemination of illegal content related to Hamas' terrorist attacks against Israel.

The proceedings will focus on the following areas:

- Compliance with DSA obligations related to countering the dissemination of illegal content in the EU;
- Effectiveness of measures taken to combat information manipulation on the platform (e.g. X's so-called "Community Notes" system and related policies mitigating risks to civic discourse and electoral processes);
- Steps taken by X to make its platform more transparent; the inquiry will look into potential inadequacies in X's advertisements repository and in providing researchers with access to X's publicly available data, as required by Art. 40 of the DSA;
- Suspected deceptive design of the user interface, particularly with regard to so-called "blue checks," which are checkmarks associated with specific subscription services.

In the event that these shortcomings are proven, they would be violations of DSA Arts. 34(1), 34(2), and 35(1), 16(5) and 16(6), 25(1), 39, and 40(12).

Regarding the opening of formal proceedings against X, the Commissioner for Internal Market, *Thierry Breton*, made clear that "the time of big online platforms behaving like they are too big to care has come to an

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end. We now have clear rules, ex ante obligations, strong oversight, speedy enforcement, and deterrent sanctions and we will make full use of our toolbox to protect our citizens and democracies. We will now start an in-depth investigation of X's compliance with the DSA obligations concerning countering the dissemination and amplification of illegal content and disinformation in the EU, transparency of the platforms and design of the user interface."

What next?

After the formal opening of the proceedings, the Commission will continue to gather evidence, possibly through additional requests for information, interviews, or inspections. The Commission may take further enforcement measures, including interim measures and decisions in order to establish that X has failed to fulfil its obligations. If X commits to remedies, the Commission may accept them. The duration of an in-depth investigation depends on factors such as the complexity of the case and cooperation with the Commission. The opening of an in-depth investigation does not, however, forejudge the outcome and does not relieve Member State authorities of their powers to supervise and enforce certain articles of the DSA in relation to the case.

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