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Analysis of today
Assessment of tomorrow

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Why Washington is not leaving Musk's dispute to the European court

On 24 September, the US government requested permission to join Elon Musk and the companies challenging the €120 million fine imposed on platform X before the European Union's court.

The request was filed in two sets of proceedings before the General Court of the EU.

The US Department of Justice argues that the European Commission exceeded its powers when it attributed responsibility for the actions of the platform to its owner and the companies associated with it.

The court has not yet decided whether to allow Washington to participate in the proceedings.

The involvement of the US government in a dispute initiated by a private company gives the case significance that goes beyond the fine itself. Washington wants to prevent the Commission from penalising other US technology groups.

Brussels, on the other hand, must demonstrate that it can enforce its rules over a global platform even when its owner and parent companies are outside the European Union.

Why X received a fine

The Commission imposed the fine on 5 December 2025 for three breaches of the European Digital Services Act.

In its view, the blue check mark and the "verified" label could have led users to believe that X had confirmed the identity of the account holder, even though it had not necessarily done so.

It also found that paid advertising records were not sufficiently accessible or searchable, making it difficult for researchers to obtain the public data needed to study the platform.

X is contesting the Commission's assessment on all three issues before the court

The Commission believes that people must reliably be able to distinguish an account whose identity has been verified from an account that has simply paid for a special label.

Advertising data is needed to show who paid for a message, to whom it was shown, and when. Access to public data allows researchers to examine advertising and other online phenomena independently.

X is contesting the Commission's assessment on all three issues before the court.

The court will have to review the evidence and consider whether the Commission correctly applied the law.

Where the owner's responsibility ends

The US intervention focuses primarily on another issue: whom the Commission can penalise.

X Internet, a company based in Ireland, is directly involved in providing services to European customers.

In the penalty decision, responsibility was attributed to other companies in the ownership structure, as well as to Musk personally.

The US Department of Justice argues that the obligations of a social network cannot simply be transferred to whoever owns or controls it.

European law allows a fine of up to 6% of the service provider's total annual worldwide turnover.

That is the maximum permitted amount, while the fine imposed in this case is €120 million.

When the service provider belongs to a larger corporate group, the basis for calculating the fine may depend on how the circle of those responsible is defined.

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Washington disputes the Commission's approach, under which the worldwide revenue of the wider economic entity under Musk's or X Holdings' control is relevant for this purpose.

This reflects the US side's interpretation of the Commission's decision, not the court's conclusion.

Musk, X Internet and X Holdings brought legal proceedings in February. X.AI Holdings also brought a separate action, arguing, among other things, that it could not have been penalised for the period before it was founded.

The US government is now seeking to participate in the X Internet and X Holdings proceedings, as well as in the Musk case.

Its published request does not cover X.AI Holdings' separate action.

The court will rule on that company on the basis of its separate claim, in which the date of its incorporation and the timing of the infringement are important.

The US objection has limits

The US Department of Justice claims that the Commission has extended its decision to US companies that do not themselves operate platform X in Europe.

In particular, it opposes the attempt to circumvent the legal separation of companies by referring to a common owner.

If the court accepts such a broad interpretation, Washington argues that other US companies could also be held responsible for the actions of European services within their corporate groups.

It does not follow that X can avoid European law simply because it has an American owner.

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The Digital Services Act applies to platforms that provide services to people in the European Union.

A much more difficult question is how far the Commission can reach beyond the company that provides that service, and what it must prove about the role of other companies or owners.

The court will assess that connection on the basis of European law and the specific circumstances, including arguments about who operated the platform and who had the ability to influence its decisions.

If responsibility in every case ended with the company that formally provides the service, companies could distribute management and financial resources across different parts of the group, while the European regulator would have significantly less ability to enforce penalties.

However, joint ownership alone does not show that another company was deciding how the platform would behave.

The court will have to determine what connection the law requires between the penalised party, the service, and the actions for which the penalty was imposed.

X accepts the plan and challenges the penalty

While legal action is pending, X is attempting to comply with part of the Commission's requirements.

In July, Brussels accepted a plan under which the platform must improve its advert search function and publish more data about adverts.

X also pledged to make it easier for researchers to access public data and to remove restrictions that prevented them from collecting it.

The company has six months to implement the plan, after which an independent audit will show what has actually changed.

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The European Board for Digital Services determined that the proposed changes address only part of the problem and that the planned verification of their results is not sufficient.

The Commission nonetheless accepted the plan, subject to increased supervision.

After introducing the changes, X must submit an independent review report within six months and implement its recommendations, if any.

In the meantime, the company will challenge the Commission's findings, the amount of the fine and the decision that Musk and related companies are responsible for the actions of the platform before the court.

The US request to participate in that dispute does not alter the obligations X assumed by accepting the plan.

The court can limit the scope of the penalty

The General Court will first decide whether the US government has a sufficiently direct and existing interest to participate in the cases.

If its request is accepted, Washington will be able to present its arguments in support of Musk and the companies that brought the claims.

This will not give it the right to determine how the Union applies its law, but US opposition will be expressed in the court proceedings themselves, and not only in diplomatic statements.

European supervision of X is likely to continue while the court deliberates on the penalty

The court can then separately assess whether X breached the transparency obligations, whether the Commission correctly identified those responsible, and whether the penalty was properly calculated.

Different outcomes are therefore possible. Even if a court limits the responsibility of Musk or a related company, the platform's obligations towards European users may remain in force.

If, on the other hand, it accepts the Commission's broader interpretation, US technology groups will have to take into account that the European penalty may affect more than the company that directly deals with users.

European supervision of X is likely to continue while the court deliberates on the penalty.

The Commission already has a plan to verify the promised changes, and the US government has decided to defend its interpretation of owner responsibility in court.

The outcome of the case will determine what the Commission must prove before declaring an owner or companies that do not manage a platform themselves responsible for an infringement.

Washington will probably use any subsequent sanctions against US platforms to increase pressure on Brussels.

In July, the US Trade Representative linked fines imposed on Google under another European digital law to trade relations with the EU; in X's case, the Department of Justice and the State Department jointly prepared the application to participate in the court proceedings.

If the court accepts that request, the US administration will have both the opportunity to support the company before the European court and a reason to raise the issue of the penalty in trade talks.

The Commission has already fined other major platforms, and US opposition is unlikely to stop enforcement.

Any subsequent large fine against an American company could trigger two disputes at once: before the court, about the legality of the decision, and between Washington and Brussels, about how far Europe can go in penalising US technology groups.