



EUROPEAN COMMISSION

***CASE DMA. 100041***  
***X - online social networking service***

(Only the English text is authentic)

**Digital Markets Act**  
**Regulation (EU) 2022/1925 of the European Parliament**  
**and of the Council**

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Article 17 Regulation (EU) 2022/1925

Date: 16/10/2024

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Brussels, 16.10.2024  
C(2024) 6950 final

**COMMISSION IMPLEMENTING DECISION**

**of 16.10.2024**

**closing the market investigation opened by Decision C(2024) 3117, pursuant to Article  
17 of Regulation (EU) 2022/1925 of the European Parliament and of the Council on  
contestable and fair markets in the digital sector**

**Case DMA.100041 - X - online social networking service**

(Only the English text is authentic)

# COMMISSION IMPLEMENTING DECISION

of 16.10.2024

**closing the market investigation opened by Decision C(2024) 3117, pursuant to Article 17 of Regulation (EU) 2022/1925 of the European Parliament and of the Council on contestable and fair markets in the digital sector**

**Case DMA.100041 - X - online social networking service**

(Only the English text is authentic)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act), and in particular Article 17 thereof, <sup>(1)</sup>

After consulting the Digital Markets Advisory Committee,

Whereas:

## 1. INTRODUCTION

- (1) On 1 March 2024, X Holdings Corp. notified the Commission, pursuant to Article 3(3), first subparagraph, of Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector (Digital Markets Act), that it meets the thresholds laid down in Article 3(2), points (b) and (c), but not (a), of that Regulation in relation to the following core platform services (“CPSS”): (i) its online social networking service X; and (ii) its online advertising service X Ads (the “Notification”). <sup>(2)</sup>
- (2) Together with the Notification, X Holdings Corp. presented arguments aimed at demonstrating, <sup>(3)</sup> in the event that the Commission would in fact consider all three thresholds in Article 3(2) of Regulation (EU) 2022/1925 to be met in relation to (i) X and (ii) X Ads, that the requirements listed in Article 3(1) of that Regulation exceptionally are not satisfied in relation to both services due to the circumstances in which those services operate. <sup>(4)</sup>
- (3) On 13 May 2024, the Commission sent a letter to Mr. Elon Musk, concluding that he and all entities directly or indirectly controlled by him are not to be designated as a

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<sup>1</sup> OJ L 265, 12.10.2022, p. 1.

<sup>2</sup> Notification pursuant to Article 3 of Regulation (EU) 2022/1925, Form for Gatekeeper Designation (GD), notified on 1 March 2024 (document with ID 43) (“Form GD”).

<sup>3</sup> Further substantiated in X Holdings Corp. reply of 4 April 2024 to the Commission’s letter sent on 25 March 2024 concerning X Holding Corp.’s notification under Article 3(3) of Regulation (EU) 2022/1925 (document with ID 65-1).

<sup>4</sup> Form GD, Annex 1 and Annex 2 (document with ID 43).

gatekeeper pursuant to Article 3(4) of Regulation (EU) 2022/1925 in relation to its online advertising service X Ads (the “Non-Designation Letter”).<sup>(5)</sup>

- (4) In the Non-Designation Letter, the Commission also concluded that X constitutes an online social networking CPS within the meaning of Article 2, point (2), subpoint (c), of Regulation (EU) 2022/1925 and that the undertaking concerned, within the meaning of Article 3 of Regulation (EU) 2022/1925, is not limited to X Holdings Corp., as argued by the latter,<sup>(6)</sup> but comprises all legal entities ultimately controlled by Mr. Elon Musk, namely X Holdings Corp., Space X, The Boring Company, Neuralink Corporation and X.AI, as well as Mr. Elon Musk (together referred to as “the Musk Group”).<sup>(7)</sup> The Commission further concluded that the Musk Group, in relation to its online social networking service X, meets the quantitative thresholds set out in Article 3(2)(a) to (c) of Regulation (EU) 2022/1925. The Commission also considered that X Holdings Corp. had submitted sufficiently substantiated arguments which manifestly call into question the presumptions laid down in Article 3(2) of that Regulation in relation to its online social networking CPS X.<sup>(8)</sup>
- (5) Therefore, by separate decision of 13 May 2024,<sup>(9)</sup> the Commission opened a market investigation pursuant to Articles 16(1) and 17(3) of Regulation (EU) 2022/1925 to assess whether the Musk Group should be designated as a gatekeeper in relation to its online social networking CPS X.<sup>(10)</sup> In that decision, the Commission took the view that X Holdings Corp. had presented certain arguments, in particular on X’s relatively small scale and low end user engagement, which, considered together, were sufficiently substantiated so as to manifestly call into question the presumptions laid down in Article 3(2)(b) of Regulation (EU) 2022/1925 in relation to the online social networking CPS X.<sup>(11)</sup>

## **2. PROCEDURE**

- (6) In May and June 2024, the Commission sent four requests for information (“RFIs”) <sup>(12)</sup> to the Musk Group in the framework of the market investigation in case DMA.100041 - X - online social networking service, all of which were replied to.
- (7) The Commission also sent RFIs <sup>(13)</sup> to other providers of online social networking services.
- (8) The Commission further contacted several consumer associations and sent electronic RFIs (“eRFI questionnaires”) to business users of online social networking services.

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<sup>5</sup> C(2024) 3156 final, 13.5.2024.

<sup>6</sup> The Commission considers that, in its response of 23 August 2024 to the Commission’s preliminary findings of 9 August 2024, X Holdings Corp. did not provide any new arguments putting into question the Commission’s conclusion in Decision C(2024) 3156 final, 13.5.2024, paragraphs 39-45 regarding the perimeter of the undertaking concerned.

<sup>7</sup> C(2024) 3156 final, 13.5.2024, paragraphs 39-45.

<sup>8</sup> C(2024) 3156 final, 13.5.2024, paragraphs 59-60.

<sup>9</sup> Decision C(2024) 3117 final, 13.5.2024, as corrected by Corrigendum Decision C(2024) 6687 final, 24.09.2024.

<sup>10</sup> See Decision C(2024) 3117 final, 13.5.2024, paragraph 15.

<sup>11</sup> See Decision C(2024) 3117 final, 13.5.2024, paragraph 10.

<sup>12</sup> There were two types of RFIs: asking for (i) contact details of other online social networking services, business users, and relevant consumer associations, and (ii) substantive questions.

<sup>13</sup> There were two RFIs per recipient service: one asking for contact details of business users, and one with substantive questions.

- (9) On 4 July 2024, Mr. Elon Musk, in his capacity of ultimate controller of X Holdings Corp., Space Exploration Technologies Corp., X.AI Corp., Neuralink Corp. and The Boring Company, waived his right of access to the case file under Articles 8(2) and 8(3) of the Commission Implementing Regulation (EU) 2023/814 of 14 April 2023 on detailed arrangements for the conduct of certain proceedings by the Commission pursuant to Regulation (EU) 2022/1925 of the European Parliament and of the Council. <sup>(14)</sup>
- (10) On 9 August 2024, the Commission adopted its preliminary findings in the market investigation according to Article 17(3) of Regulation (EU) 2022/1925 (“the Preliminary Findings”). <sup>(15)</sup> The Commission communicated the Preliminary Findings to Mr. Elon Musk and provided him with the opportunity of being heard on those Preliminary Findings pursuant to Article 34(1) of that Regulation.
- (11) On 23 August 2024, X Holdings Corp. submitted its observations on the Preliminary Findings to the Commission. <sup>(16)</sup>

### **3. ASSESSMENT PURSUANT TO ARTICLE 17(3) OF REGULATION (EU) 2022/1925**

#### **3.1. The Undertaking’s view**

- (12) To rebut the presumptions laid down in Article 3(2) of Regulation (EU) 2022/1925 in relation to its online social networking CPS X pursuant to Article 3(5), first subparagraph, of that Regulation, X Holdings Corp. argued that X does not constitute an important gateway for business users to reach end users in the Union within the meaning of Article 3(1)(b) of Regulation (EU) 2022/1925, based on the relative small scale of that service and end users’ relative low intensity of use of and engagement with X. X Holdings Corp. also presented further arguments related to the requirements listed in Article 3(1)(a), (b) and (c) of that Regulation.

##### *3.1.1. X’s scale*

- (13) In X Holdings Corp.’s view, X does not constitute an important gateway for business users to reach end users due to (i) X’s small scale as an online social networking service in absolute terms as well as compared to other online social networking services, and (ii) X’s decreasing scale as an online social networking service in the Union. <sup>(17)</sup> X Holdings Corp. provided a number of data and metrics to substantiate its claims.
- (14) First, X Holdings Corp. provided data indicating that X is relatively smaller in terms of the number of unique monthly active end users of the service as compared to online social networking CPSs listed in the designation decisions of gatekeepers. In this respect, X Holdings Corp. relies on data and metrics from three different sources: (i) the number of average monthly active recipients of the service in Union which providers of online platforms are required to publish pursuant to Article 24 of Regulation (EU) 2022/2065; <sup>(18)</sup> (ii) a Statista report setting out the historic and

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<sup>14</sup> OJ L 102, 17.4.2023, p. 6–19.

<sup>15</sup> Decision C(2024) 5836 final, 09.08.2024.

<sup>16</sup> Reply to Preliminary Findings pursuant to Article 17(3) Regulation (EU) 2022/1925 of the European Parliament and of the Council on contestable and fair markets in the digital sector.

<sup>17</sup> Form GD, Annex I, paragraphs 38 and 39.

<sup>18</sup> OJ L 277, 27.10.2022, p. 1–102 (Digital Services Act). See X Holdings Corp. reply of 4 April 2024 to the Commission’s letter sent on 25 March 2024 concerning X Holding Corp.’s notification under Article 3(3) of Regulation (EU) 2022/1925, paragraph 15.

projected annual number of monthly active users of selected social media platforms worldwide <sup>(19)</sup> and EU-wide <sup>(20)</sup> and (iii) a study by the market intelligence provider DataReportal setting out the number of monthly active users in Europe over the period April 2022 - April 2023. <sup>(21)</sup>

(15) When asked by the Commission which of the three data sources provided best reflects and approximates the accounting of monthly active end users, X Holdings Corp. indicated that the Statista data is most closely related to the end user definition under Regulation (EU) 2022/1925 because the quality and multitude of the sources behind the calculations of Statista likely ensure the most accurate and reliable metric of EU unique monthly active logged-in and logged-out users during a financial year. <sup>(22)</sup>

(16) Second, X Holdings Corp. provides data indicating a decreasing trend of the scale of X reflected by a decline in revenue and a decrease in the fair market value of X. <sup>(23)</sup>

### 3.1.2. *X's end user engagement*

(17) In X Holdings Corp.'s view, X does not constitute an important gateway for business users to reach end users due to its low and declining level of absolute and relative end user engagement.

(18) X Holdings Corp. argues that X's absolute end user engagement metrics show a decreasing trend of engagement between 2020 and 2023 in terms of original posts, quotes, replies, reposts and time spent per user. <sup>(24)</sup>

(19) X Holdings Corp. further submits that X fares worse than most online social networking services along several engagement metrics. Data from "data.ai" for the EU provided by X Holdings Corp. shows that X always ranks between the fourth and the sixth position when it comes to [different engagement metrics]. <sup>(25)</sup>

(20) Similarly, when it comes to [different engagement metrics], X Holdings Corp. submits that X always ranks fifth or lower compared to other key online social networking services including those listed as CPSs in the designation decisions of gatekeepers under Regulation (EU) 2022/1925, such as Facebook, Instagram, or TikTok. <sup>(26)</sup>

### 3.1.3. *Other arguments put forward by X Holdings Corp.*

(21) Finally, X Holdings Corp. put forward a number of other arguments to substantiate its rebuttal, addressing each of the requirements of Article 3(1)(a), (b) and (c) of Regulation (EU) 2022/1925 and including claims that (i) X does not benefit from an ecosystem, <sup>(27)</sup> (ii) [X lacks an entrenched position in the EU], <sup>(28)</sup> (iii) the market

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<sup>19</sup> Form GD, Annex I, paragraph 41.

<sup>20</sup> X Holdings Corp. reply of 4 April 2024 to the Commission's letter sent on 25 March 2024 concerning X Holding Corp.'s notification under Article 3(3) of Regulation (EU) 2022/1925, paragraph 16.

<sup>21</sup> X Holdings Corp. reply of 4 April 2024 to the Commission's letter sent on 25 March 2024 concerning X Holding Corp.'s notification under Article 3(3) of Regulation (EU) 2022/1925, paragraph 18.

<sup>22</sup> X Holdings Corp.'s response to the RFI of 27 May 2024, question 3b.

<sup>23</sup> Form GD, Annex I, paragraph 48.

<sup>24</sup> Form GD, Annex I, paragraphs 48 and 49.

<sup>25</sup> X Holdings Corp. reply of 4 April 2024 to the Commission's letter sent on 25 March 2024 concerning X Holding Corp.'s notification under Article 3(3) of Regulation (EU) 2022/1925, paragraph 23.

<sup>26</sup> X Holdings Corp. reply of 4 April 2024 to the Commission's letter sent on 25 March 2024 concerning X Holding Corp.'s notification under Article 3(3) of Regulation (EU) 2022/1925, paragraph 23.

<sup>27</sup> Form GD, Annex I, Section 2.1.

value of the Musk Group does not reflect the monetisation potential or financial capacity of X, and (iv) the other companies belonging to the Musk Group are not operating in the EU internal market and their market value should therefore be irrelevant. <sup>(29)</sup>

### 3.2. The Commission's assessment

- (22) For the reasons explained in the subsequent sections, the Commission finds that, while the Musk Group meets the quantitative thresholds laid down in Article 3(2) of Regulation (EU) 2022/1925 in relation to the online social networking CPS X, the arguments presented by X Holdings Corp. pursuant to Article 3(5) of that Regulation and the results of the market investigation show that, exceptionally, the requirements laid down in Article 3(1)(b) of Regulation (EU) 2022/1925 are not satisfied in relation to that CPS, due to the circumstances in which X operates.

#### 3.2.1. *#X smaller scale in terms of number of end users as compared to other large online social networking services*

- (23) The Commission considers that X's number of unique monthly active end users provides a reliable basis for assessing its scale, since that metric is an accurate indicator of the actual usage and relevance of an online social networking service for enabling business users to reach end users.
- (24) To determine X's number of unique monthly active end users in the Union, the Commission first reviewed the data provided by X Holdings Corp., namely a Statista report on the number of monthly active users of online social networking services in the EU, <sup>(30)</sup> and the publicly available figures reported by providers of online platforms to comply with their reporting obligation under Article 24 of Regulation (EU) 2022/2065. <sup>(31)</sup>
- (25) Based on the Statista data, Facebook, Instagram, LinkedIn and TikTok have respectively 6, 3.6, 2.5 and 2.4 times more monthly active users than X. <sup>(32)</sup> Based on the data reported pursuant to Article 24 of Regulation (EU) 2022/2065, Facebook, Instagram, LinkedIn, TikTok have respectively 2.3, 2.3, 1.8, and 1.3 times more unique monthly active recipients than X. <sup>(33)</sup>
- (26) To further substantiate and reconcile the data provided by X Holdings Corp., the Commission asked, during its market investigation, providers of other online social networking services to provide it with their number of unique monthly active end users in the European Union within the meaning of Article 3(2)(b) and the Annex of

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<sup>28</sup> Form GD, Annex I, Section 3.

<sup>29</sup> Form GD, Annex I, Section 1.

<sup>30</sup> X Holdings Corp. reply of 4 April 2024 to the Commission's letter sent on 25 March 2024 concerning X Holding Corp.'s notification under Article 3(3) of Regulation (EU) 2022/1925, paragraph 16.

<sup>31</sup> Publicly available on the websites of the designated very large online platforms under Regulation EU 2022/2065 (last viewed 12.07.2024); it includes for all quoted online social networking services 2023 data, for Facebook, Instagram and TikTok as well 2022 data and for Facebook and Instagram as well the 2024 trend.

<sup>32</sup> Calculations based on the Statista report included in X Holdings Corp. reply of 4 April 2024 to the Commission's letter sent on 25 March 2024 concerning X Holding Corp.'s notification under Article 3(3) of Regulation (EU) 2022/1925, paragraph 16.

<sup>33</sup> Publicly available on the websites of the designated very large online platforms under Regulation EU 2022/2065 (last viewed 12.07.2024); it includes for all quoted online social networking services 2023 data, for Facebook, Instagram and TikTok as well 2022 data and for Facebook and Instagram as well the 2024 trend.

Regulation (EU) 2022/1925 for the years 2021, 2022, 2023 and 2024 when available.<sup>(34)</sup>

- (27) Based on the data received during the market investigation, on average for 2021, 2022, 2023 and 2024 when available, Facebook, Instagram, TikTok – three online social networking services designated as gatekeepers – have respectively and in descending order, several times more unique monthly active end users than X, whereas Snapchat’s number of unique monthly active end users lies within a similar range to that of X.<sup>(35)</sup>
- (28) Comparing the data sources and methodologies received during the market investigation, the Commission considers all three data sets, including the Statista data, which is considered by market operators to be a reputable market intelligence provider and is used by many of them, as reliable and indicative of X’s number of monthly active users in the Union. The differences between the three data sets can be explained by a number of factors.
- (29) *First*, while the data received from online social networking services during the market investigation reports the numbers of end users excluding business users, in line with the definition of an end user as set out in Section B and E of the Annex to Regulation (EU) 2022/1925, the Statista data and the data reported pursuant to Article 24 of Regulation (EU) 2022/2065 do not distinguish between end users and business users.<sup>(36)</sup>
- (30) *Second*, while the data reported pursuant to Article 24 of Regulation (EU) 2022/2065 and the Statista data include logged-out users,<sup>(37)</sup> in line with the definition of an end user as set out in Section B and E of the Annex to Regulation (EU) 2022/1925, the data received from some of the other online social networking services during the market investigation does not include logged-out users. The inclusion or non-inclusion of X’s logged-out end users has a significant impact on the number of users, given that the data received from X Holdings Corp. is based on an estimated and very high ratio of logged-out end users.<sup>(38)</sup>
- (31) *Third*, while data received from online social networking services during the market investigation is based on their own internal estimates, Statista relies on a range of data sources, including financial reports, partner reports on active social media users,

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<sup>34</sup> The Commission notes the difficulties deriving from the differences existing between providers of online social networking services when it comes to the way in which each of them identifies end users as a distinct category from business users within the meaning of the Annex of Regulation (EU) 2022/1925. However, since online social networking services often feature users that can be both end and business users at the same time, the Commission considers the end user data provided by other online social networking services to be reliable and certainly useful to compare and reconcile with the other data sources provided by X Holdings Corp.

<sup>35</sup> Calculations based on the Form GD, paragraphs 47 and 48 and replies to the RFI sent to other providers of online social networking services.

<sup>36</sup> X Holdings Corp.’s reply of 10 June 2024 to the Commission’s RFI.

<sup>37</sup> X Holdings Corp.’s reply of 10 June 2024 to the Commission’s RFI.

<sup>38</sup> Estimated ratio of X logged-in to logged-out users of 63%-37% based on a period of 45 days (see Form GD, paragraph 48).



internet penetration data company data, the “We are Social” Reports, <sup>(39)</sup> and additional sources for traffic data. <sup>(40)</sup>

- (32) Overall, all data received during the market investigation support the conclusion that X has fewer end users than all other online social networking CPS thus far listed in the designation decisions of gatekeepers. While the relative differences in end user numbers between X and other online social networking services depend on the data source and underlying methodology, they are significant across all sources. For example, according to Statista, X has less than half the number of end users compared to TikTok, the smallest online social networking CPS listed in a designation decision.
- (33) Furthermore, according to the latest data publicly reported by the provider of X in compliance with its obligation pursuant to Article 24 of Regulation (EU) 2022/2065, the number of active recipients (i.e., users) of X declined between August 2023 and August 2024. <sup>(41)</sup> This contrasts with other online social networking services, like LinkedIn <sup>(42)</sup> and TikTok, <sup>(43)</sup> which have been growing over that same period. This further supports the Commission’s conclusion regarding X’s relative small scale in terms of user numbers.
- 3.2.2. *X end user engagement is lower than that of other large online social networking services*
- (34) Online social networking services allow end users to connect and communicate with each other through different actions, such as sharing, discovering, or posting content, which in turn allows business users to promote their brand, sell their products or services, or offer additional supporting services to their customers. Consequently, the Commission considers that user engagement is a reliable basis for assessing the ability of business users to use X as an important gateway to reach end users. <sup>(44)</sup>
- (35) According to data provided by seven providers of other large online social networking services <sup>(45)</sup> in relation to some of the engagement metrics highlighted by X Holdings Corp. in its submissions (see paragraphs (19) and (20) above), X shows lower rates of user engagement than other large online social networking services. For instance, according to the data provided by those providers on [specific

<sup>39</sup> See <https://wearesocial.com/id/blog/2023/01/the-changing-world-of-digital-in-2023-2/> for 2023, other years available, accessed on 05.09.2024.

<sup>40</sup> X Holdings Corp.’s reply of 4 April 2024 to the Commission’s letter sent on 25 March 2024 concerning X Holding Corp.’s notification under Article 3(3) of Regulation (EU) 2022/1925, paragraph 16.

<sup>41</sup> The number of active recipients X was 111.4 million between August 2023 and January 2024 (see <https://transparency.x.com/en/reports/amars-in-the-eu/amars-in-the-eu-aug-24>, accessed on 30.08.2024), and 105,994,838 between February 2024 and July 2024 (see <https://transparency.x.com/en/reports/amars-in-the-eu>, accessed on 30.08.2024).

<sup>42</sup> The number of active recipients of LinkedIn was 177.7 million between January and June 2023 (see <https://content.linkedin.com/content/dam/help/linkedin/en-us/October-2023-LinkedIn-DSA-Transparency-Report10.pdf>) and 226.1 million between July and December 2023 (see <https://content.linkedin.com/content/dam/help/linkedin/en-us/October-2023-LinkedIn-DSA-Transparency-Report10.pdf>). The numbers for 2024 are not published yet (status on 06.09.2024).

<sup>43</sup> The number of active recipients of TikTok was 142 million between August 2023 and January 2024 (see <https://www.tiktok.com/transparency/en/eu-mau-2024-2/>, accessed on 05.09.2024) and 150 million between February and July 2024 (see [https://www.tiktok.com/transparency/en/eu-mau-2024-7?tc\\_version=2024](https://www.tiktok.com/transparency/en/eu-mau-2024-7?tc_version=2024), accessed on 05.09.2024).

<sup>44</sup> Case T-1077/23, *Bytedance Ltd v European Commission*, para 179.

<sup>45</sup> The Commission received specific internal data on end user engagement for the following online social networking services from their respective operators: [seven operators].

engagement metric], X shows significantly lower figures than in particular TikTok, which has [specific engagement metric] more than [eight to twelve] times higher than X's, but also than Facebook, Instagram, and other online social networking services, which have [specific engagement metric] several times higher than X's. According to the metric [...], Facebook, Instagram, Snapchat and TikTok all rank in the first four positions, all of them showing figures of up to [specific engagement metric], while X ranks fifth with [specific engagement metric]. Similarly, according to the metric [...], X ranks sixth with [specific engagement metric], lagging behind other large online social networking services, such as Snapchat, Instagram, TikTok and Facebook, which show between 4 and 10 times of X's [specific engagement metric]. A similar trend can be observed for the metric [...],<sup>(46)</sup> which shows a noticeable gap between X's position and for example TikTok, which ranks first with [specific engagement metric] several times higher than X's.

- (36) Of all the online social networking services listed in the designation decisions of other gatekeepers, only [specific online social networking service] ranks lower than X across the aforementioned metrics. However, this may be due to [specific gatekeeper]'s more conservative approach to the measurement of end user engagement on [specific online social networking service], which likely underestimates its relative position.<sup>(47)</sup>
- (37) The data on relative end user engagement received from the seven providers of other large online social networking services during the market investigation is generally consistent with the data submitted by X Holdings Corp., which stems from publicly available sources, such as “data.ai” (see paragraph (19) above). In particular, the Commission observes consistency in terms of the difference in relative ranking between TikTok, Instagram and Facebook, which tend to fare among the top positions across various engagement metrics, and X, which never rates higher than the fourth position and, for certain metrics,<sup>(48)</sup> in the last position amongst the largest online social networking services. More generally, respondents to the market investigation also confirmed the reliability of the data sources used by X Holdings Corp in its rebuttal submission, including “data.ai”.<sup>(49)</sup>
- (38) Consequently, the market investigation confirms that end users' engagement on X is significantly lower than that of other large online social networking services.
- 3.2.3. *Business users do not consider themselves dependent on X to reach end users*
- (39) The market investigation confirms the limited relevance of X for business users to reach end users within the meaning of Article 3(1)(b) of Regulation (EU) 2022/1925.

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<sup>46</sup> [Explanation of specific engagement metric].

<sup>47</sup> By applying more restrictive approaches when measuring end user engagement, the providers of online social networking services likely underestimate the relative positions of their respective online social networking services, like in the case of [specific gatekeeper] for [specific online social networking service].

<sup>48</sup> For example, [specific engagement metric].

<sup>49</sup> Replies by Microsoft Corporation, Meta Platforms, Pinterest Europe Limited, and Tumblr to the Commission's RFI.

- (40) *First*, a large majority of business users that responded to the market investigation indicated that X is not important or only somewhat important to their business in the Union. <sup>(50)</sup>
- (41) *Second*, a significant majority of business users that responded to the market investigation indicated that they already use other online social networking services for the same purposes for which they use X, <sup>(51)</sup> with Instagram, Facebook, Threads and TikTok being the alternative online social networking services that were mentioned by most business users. <sup>(52)</sup>
- (42) *Third*, the market investigation shows that X's relevance for business users has been decreasing over the past three years, with several business users of X explaining that their use of X has declined in that period in favour of other online social networking services. <sup>(53)</sup>

#### 3.2.4. *Other arguments put forward by X Holdings Corp.*

- (43) The Commission finds that, for the reasons sets out in Sections 3.2.1 to 3.2.3 above, X does not constitute an important gateway for business users to reach end users within the meaning of Article 3(1)(b) of Regulation (EU) 2022/1925 and that a further assessment of the other arguments and evidence submitted by X Holdings Corp. is neither needed nor warranted. This also applies to any arguments put forward by X Holdings Corp. on the requirements laid down in Article 3(1)(a) and (c) of that Regulation.
- (44) Therefore, the present Decision does not allow for any conclusions as to the Commission's views on the other arguments put forward by X Holdings Corp. Indeed, during its market investigation, the Commission came across publicly available information indicating that some of these arguments, for example those relating to X not benefitting from an ecosystem and the irrelevance of other entities of the Musk Group for X, may be debatable. <sup>(54)</sup>

<sup>50</sup> According to the responses submitted to question B.4 of the eRFI questionnaire addressed to business users, 32 out of 43 respondents to the eRFI questionnaire addressed to business users consider that X is not important (16) or somewhat important (16) for their business in the EU, while 11 consider that X is very important (5) or absolutely critical (6) for the business in the EU.

<sup>51</sup> According to the responses submitted to question B.7 of the eRFI questionnaire addressed to business users, 35 out of 43 respondents consider that they could reach end users / followers via alternative platforms, while 8 consider that they could not. Further, according to the responses submitted to question B.8 of the eRFI questionnaire addressed to business users, 29 respondents already use between 1 and 5 alternative platforms for purposes similar to those for which they use X, while 14 do not use alternative platforms for purposes similar to those for which they use X.

<sup>52</sup> For instance, one respondent to the eRFI questionnaire addressed to business users mentioned that "Facebook, Instagram, TikTok, LinkedIn and Threads all have similar media formats and routes to market. Threads is the closest platform in the EU we have seen that mirror the consumer experience to X and where we do have an organic brand presence." [Response to question B.9]. Another stated that "Salesforce uses, inter alia, Facebook, Instagram, TikTok, and LinkedIn for purposes similar to X." [Response to question B.9].

<sup>53</sup> According to the responses submitted to question B.11 of the eRFI questionnaire addressed to business users, 22 out of 43 respondents indicated that their presence on X has become less important in the last three years, while it has remained the same for 17, and increased for 4.

<sup>54</sup> See, for example, reports on the integration of X and the Musk Group's AI start-up, xAI (<https://www.ft.com/content/5cf24fdd-30ed-44ec-afe3-ae6a6f4ad90e>) and reports on Elon Musk ordering the shipment of AI chips reserved for Tesla to X and xAI (<https://www.cnbc.com/2024/06/04/elon-musk-told-nvidia-to-ship-ai-chips-reserved-for-tesla-to-x-xai.html>).

#### 4. CONCLUSION

- (45) In light of the foregoing considerations, the Commission concludes the market investigation opened pursuant to Article 17(3) of Regulation (EU) 2022/1925 into the Musk Group's online social networking CPS X and finds that that CPS does not constitute an important gateway for business users to reach end users within the meaning of Article 3(4) of that Regulation.
- (46) That conclusion is without prejudice to the possibility that the Commission may reconsider or amend this Decision, pursuant to Article 4(1) of Regulation (EU) 2022/1925, should there be any substantial change in any of the facts on which it is based, or if this Decision was based on incomplete, incorrect or misleading information.

HAS ADOPTED THIS DECISION:

##### *Article 1*

The Musk Group shall not be designated as a gatekeeper pursuant to Article 3(4) of Regulation (EU) 2022/1925 in relation to its online social networking core platform service X.

##### *Article 2*

This Decision is addressed to Mr. Elon Musk, [...].

Done at Brussels, 16.10.2024

*For the Commission*  
*Margrethe VESTAGER*  
*Executive Vice-President*