C/2025/945

10.2.2025

Summary of Commission Decision

of 16 October 2024

relating to a decision pursuant to Article 17(3) of Regulation (EU) 2022/1925

(Case DMA.100041 – X – Online SOCIAL NETWORKING SERVICE)

(notified under document number C(2024) 6950)

(Only the English text is authentic)

(C/2025/945)

On 16/10/2024, the Commission adopted a decision pursuant to Article 17(3) of Regulation (EU) 2022/1925. In accordance with the provisions of Article 44 of Regulation (EU) 2022/1925 ([1]), the Commission herewith publishes the names of the parties and the main content of the decision, having regard to the legitimate interest of undertakings in the protection of their business secrets.

1. INTRODUCTION

The Commission's decision ('the Decision') sets out the reasons based on which the Commission, following its market investigation pursuant to Article 17(3) of Regulation (EU) 2022/1925 ('DMA'), does not designate the Musk Group as a gatekeeper pursuant to Article 3 DMA in relation to its online social networking core platform service ('CPS') X, despite meeting the quantitative thresholds set out in Article 3(2) DMA.

2. PROCEDURE

Following X Holdings Corp.'s notification on 1 March 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 gatekeeper pursuant to Article 3(4) DMA in relation to its online advertising service X Ads.

By separate decision of 13 May 2024, the Commission opened a market investigation pursuant to Articles 16(1) and 17(3) DMA to assess whether the Musk Group should be designated as a gatekeeper in relation to its online social networking CPS X.

In that decision, the Commission took the view that X Holdings Corp. had presented certain arguments which, considered together, were sufficiently substantiated so as to manifestly call into question the presumptions laid down in Article 3(2)(b) DMA in relation to this CPS.

On 9 August 2024, the Commission adopted its preliminary findings in the market investigation according to Article 17(3) DMA. The Commission communicated the preliminary findings to Mr. Elon Musk and provided him with the opportunity of being heard pursuant to Article 34(1) of that Regulation. X Holdings Corp. replied on 23 August 2024.

In accordance with Articles 17 and 50(2) DMA, the Digital Markets Advisory Committee was consulted and issued its positive opinion on 4 October 2024.

3. LEGAL FRAMEWORK

The DMA establishes a set of narrowly defined objective criteria for qualifying a large online platform as a gatekeeper. Designation is to be made in relation to one or more CPSs provided by the undertaking that are an important gateway for business users to reach end users within the meaning of Article 3(1), point (b) DMA. In order to determine whether a service provided by an undertaking is a CPS that meets the requirement set out in Article 3(1), point (b) of the DMA, it is necessary, as a preliminary step, to qualify and delineate the respective service. A relevant criterion for qualifying and delineating CPSs is the purpose for which the service is used by either end users or business users or both.

([1]) 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), OJ L 265, 12.10.2022, p. 1.

According to Article 3(1) DMA, the Commission is to designate an undertaking as a gatekeeper if it fulfils three cumulative requirements, namely: (a) it has a significant impact on the internal market; (b) it provides a CPS which is an important gateway for business users to reach end users; and (c) it enjoys an entrenched and durable position, in its operations, or it is foreseeable that it will enjoy such a position in the near future. Article 3(2) DMA lays down a presumption that those requirements are satisfied where certain quantitative thresholds are met, in particular regarding the company's turnover or market capitalisation as well as the end user and business user numbers of a particular CPS in each of the last three financial years.

Pursuant to Articles 3(5) and 17(3) DMA, the Commission may conduct a market investigation for the purpose of examining whether an undertaking providing CPSs which satisfies the thresholds set out in Article 3(2) DMA and which has presented sufficiently substantiated arguments in accordance with Article 3(5) DMA manifestly calling into question the presumptions set out in Article 3(2) DMA nevertheless fulfils the criteria in Article 3(1) DMA or not. In accordance with the results of the market investigation, the Commission accepts or rejects an undertaking's rebuttal and consequently designates or does not designate the undertaking as a gatekeeper within the meaning of the DMA.

4. **THE COMMISSION'S ASSESSMENT**

Following the notification by X Holdings Corp. and the market investigation conducted by the Commission pursuant to Article 17(3) and 3(5) DMA, the Commission does not designate the Musk Group as a gatekeeper with regard to its online social networking service X, as this service is not an important gateway for business users to reach end users as referred to in Article 3(1)(b) DMA. The Commission bases its conclusion on the following reasons considered together.

First, the market investigation confirms X's relatively small scale in terms of number of end users compared to other large online social networking services. Across several sources reviewed, X has fewer end users than all other online social networking services so far designated. While the relative differences in end user numbers depend on the data source and underlying methodology, they are significant across all sources. The data also confirmed a declining trend on the part of X.

Second, the market investigation confirms that end users of X engage less in this online social networking service than they do in other large online social networking services that have already been listed in designation decisions of gatekeepers. The Commission considers end user engagement to be a reliable basis for assessing the ability of business users to use X as an important gateway to reach end users.

Third, the market investigation confirms the limited and decreasing relevance of X for business users to reach end users.

The Commission's findings on the three points above, considered together, have led to the conclusion that X is not an important gateway for business users to reach end users as referred to in Article 3(1)(b) DMA.

5. **CONCLUSION**

For the reasons set out above, the Decision closes the market investigation opened by decision C(2024)3117 of 13 May 2024 into the online social networking service X, by concluding that the Musk Group should 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.

That conclusion is without prejudice to the possibility that the Commission may reconsider or amend this Decision, pursuant to Article 4(1) DMA, 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.