

# United States Senate

WASHINGTON, DC 20510

June 2, 2023

Elon Musk  
Owner and Chief Executive Officer  
Designated Chief Technology Officer and Executive Chair  
Twitter, Inc.  
1355 Market St, #900  
San Francisco, CA 94103

Linda Yaccarino  
Designated Chief Executive Officer  
Twitter, Inc.  
1355 Market St, #900  
San Francisco, CA 94103

Dear Mr. Musk and Ms. Yaccarino:

We write regarding allegations that Twitter, Inc. has, since Mr. Musk purchased and became Chief Executive Officer (CEO) of the company in October 2022, violated its consent decree with the Federal Trade Commission (FTC) and put consumer privacy and data security at risk.<sup>1</sup> Last week, Twitter's head of trust and safety, Ella Irwin, and Twitter's head of brand safety and advertising quality, A.J. Brown, resigned.<sup>2</sup> These departures, following a string of high-profile resignations from Twitter's lead privacy, information security, and compliance officers,<sup>3</sup> raise concerns about Twitter's ability to comply with its legal obligations.<sup>4</sup>

Twitter had a poor track record of protecting consumer privacy even before Mr. Musk's takeover. In 2011, the FTC filed a complaint<sup>5</sup> against Twitter, alleging that the company was "misleading consumers about the extent to which it protects the security, privacy, and

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<sup>1</sup> CNN, "Musk's Twitter may have already violated its latest FTC consent order, legal experts say," Brian Fung, November 11, 2022, <https://www.cnn.com/2022/11/11/tech/musk-twitter-ftc/index.html>; Letter from Public Citizen President Robert Weissman and Public Citizen Big Tech Accountability Advocate Cheyenne Hunt to Federal Trade Commission Chair Lina Khan and U.S. Attorney General Merrick Garland, "Twitter's Potential Violations of the FTC Consent Decree," March 13, 2023, <https://www.citizen.org/article/twitters-potential-violations-of-the-ftc-consent-decree/>.

<sup>2</sup> Reuters, "Twitter's head of trust and safety says she has resigned," Sheila Dang, June 1, 2023, <https://www.reuters.com/technology/twitters-head-trust-safety-says-she-has-resigned-2023-06-02/>; The Wall Street Journal, "Twitter Loses Second Safety Executive Within Days," Suzanne Vranica and Patience Haggin, June 2, 2023, [https://www.wsj.com/articles/twitter-loses-second-safety-executive-within-days-1954a51e?mod=hp\\_lead\\_pos4](https://www.wsj.com/articles/twitter-loses-second-safety-executive-within-days-1954a51e?mod=hp_lead_pos4).

<sup>3</sup> The Verge, "Elon Musk is putting Twitter at risk of billions in fines, warns company lawyer," Alex Heath, November 10, 2022, <https://www.theverge.com/2022/11/10/23451198/twitter-ftc-elon-musk-lawyer-changes-fine-warning>.

<sup>4</sup> U.S. Federal Trade Commission, Decision and Order in the Matter of Twitter Inc., Docket No. C-4316, May 26, 2022, [https://www.ftc.gov/system/files/ftc\\_gov/pdf/2023062C4316TwitterModifiedOrder.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/2023062C4316TwitterModifiedOrder.pdf).

<sup>5</sup> U.S. Federal Trade Commission, Complaint in the Matter of Twitter Inc., Docket No. C-4316, March 2, 2011, <https://www.ftc.gov/sites/default/files/documents/cases/2011/03/110311twittercmpt.pdf>.

confidentiality of nonpublic consumer information...<sup>6</sup> Hackers exploited Twitter’s vulnerabilities and gained unauthorized access to nonpublic tweets and user information, and were able to reset passwords and send unauthorized tweets from accounts.<sup>7</sup> Following the complaint, Twitter entered into a consent decree<sup>8</sup> with the FTC resolving the dispute without admission of guilt.<sup>9</sup> Under the terms, Twitter was “barred for 20 years from misleading consumers about the extent to which it protects the security, privacy, and confidentiality of nonpublic consumer information, including the measures it takes to prevent unauthorized access to nonpublic information and honor the privacy choices made by consumers.”<sup>10</sup> The consent decree also required Twitter to “establish and maintain a comprehensive information security program.”<sup>11</sup> Each violation of the consent decree subjected Twitter to a civil penalty of what is today no more than \$46,517.<sup>12</sup>

Despite the FTC’s action, Twitter continued to disregard consumer privacy. In May 2022, the FTC filed a complaint alleging that Twitter violated the consent decree when it “misrepresented to users of its online communication service the extent to which it maintained and protected the security and privacy of their nonpublic contact information” from at least May 2013 to September 2019.<sup>13</sup> Twitter reportedly took personal phone numbers and email addresses that users had provided for two-factor authentication and other security purposes, and used them for targeted advertising.<sup>14</sup> The FTC and Department of Justice (DOJ) required Twitter to pay \$150 million in fines in a settlement agreement.<sup>15</sup> The parties also entered into an updated consent

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<sup>6</sup> U.S. Federal Trade Commission, “FTC Accepts Final Settlement with Twitter for Failure to Safeguard Personal Information,” press release, March 11, 2011, <https://www.ftc.gov/news-events/news/press-releases/2011/03/ftc-accepts-final-settlement-twitter-failure-safeguard-personal-information-0>.

<sup>7</sup> U.S. Federal Trade Commission, Complaint in the Matter of Twitter Inc., Docket No. C-4316, March 2, 2011, p. 4, <https://www.ftc.gov/sites/default/files/documents/cases/2011/03/110311twittercmpt.pdf>.

<sup>8</sup> U.S. Federal Trade Commission, Decision and Order in the Matter of Twitter Inc., Docket No. C-4316, March 2, 2011, <https://www.ftc.gov/sites/default/files/documents/cases/2011/03/110311twitterdo.pdf>; U.S. Federal Trade Commission, “FTC Accepts Final Settlement with Twitter for Failure to Safeguard Personal Information,” press release, March 11, 2011, <https://www.ftc.gov/news-events/news/press-releases/2011/03/ftc-accepts-final-settlement-twitter-failure-safeguard-personal-information-0>.

<sup>9</sup> U.S. Federal Trade Commission, Decision and Order in the Matter of Twitter Inc., Docket No. C-4316, p. 1, March 2, 2011, <https://www.ftc.gov/sites/default/files/documents/cases/2011/03/110311twitterdo.pdf>.

<sup>10</sup> U.S. Federal Trade Commission, “Twitter Settles Charges that it Failed to Protect Consumers’ Personal Information; Company Will Establish Independently Audited Information Security Program,” press release, June 24, 2010, <https://www.ftc.gov/news-events/news/press-releases/2010/06/twitter-settles-charges-it-failed-protect-consumers-personal-information-company-will-establish>.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*; U.S. Federal Trade Commission, “FTC Publishes Inflation-Adjusted Civil Penalty Amounts for 2022,” press release, January 6, 2022, <https://www.ftc.gov/news-events/news/press-releases/2022/01/ftc-publishes-inflation-adjusted-civil-penalty-amounts-2022>.

<sup>13</sup> U.S. Federal Trade Commission, Complaint in the Matter of Twitter Inc., Docket No. C-4316, May 25, 2022, p. 2, [https://www.ftc.gov/system/files/ftc\\_gov/pdf/2023062TwitterFiledComplaint.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/2023062TwitterFiledComplaint.pdf).

<sup>14</sup> *Id.*, p. 6; U.S. Federal Trade Commission, “On FTC’s Twitter Case: Enhancing Security Without Compromising Privacy,” DPI and CTO Staff, May 25, 2022, <https://www.ftc.gov/policy/advocacy-research/tech-at-ftc/2022/05/ftcs-twitter-case-enhancing-security-without-compromising-privacy>.

<sup>15</sup> U.S. Department of Justice, “Twitter Agrees with DOJ and FTC to Pay \$150 Million Civil Penalty and to Implement Comprehensive Compliance Program to Resolve Alleged Data Privacy Violations,” May 25, 2022, <https://www.justice.gov/opa/pr/twitter-agrees-doj-and-ftc-pay-150-million-civil-penalty-and-implement-comprehensive>; U.S. Federal Trade Commission, “Twitter to Pay \$150 Million penalty for allegedly breaking its privacy promises – again,” Lesley Fair, May 25, 2022, <https://www.ftc.gov/business-guidance/blog/2022/05/twitter->

decree, with additional obligations for Twitter,<sup>16</sup> including requirements to create and maintain a privacy and security program;<sup>17</sup> file a sworn compliance notice to the FTC within 14 days of the company experiencing a change in structure such as sales, including change of ownership, and mergers;<sup>18</sup> conduct an assessment of privacy, security, confidentiality, and integrity risks before implementing any new products;<sup>19</sup> and report to the FTC within 30 days if personal information of 250 or more users was “accessed, acquired, or publicly exposed without authorization.”<sup>20</sup>

After taking over the company in October 2022, Mr. Musk made numerous hasty personnel and product decisions “that raise significant questions about Twitter’s compliance with the updated FTC consent decree.”<sup>21</sup> In November 2022, Mr. Musk fired multiple top executives;<sup>22</sup> top security executives resigned;<sup>23</sup> and Mr. Musk fired employees who had criticized him,<sup>24</sup> let go of contractors, and laid off half of the workforce.<sup>25</sup> On November 9, the day before the deadline to submit a report to the FTC,<sup>26</sup> the Chief Privacy Officer, Chief Information Security Officer, and Chief Compliance Officer all resigned.<sup>27</sup> Internal messages obtained by the *New York Times* show that an employee suggested internal privacy reviews of Twitter’s products were not occurring as they should under the order.<sup>28</sup> Reports also indicated that the launch of the updated Twitter Blue subscription service “disregarded the company’s normal privacy and security review.”<sup>29</sup> In April of this year, Mr. Musk also confirmed that over 80 percent of the work force

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[pay-150-million-penalty-allegedly-breaking-its-privacy-promises-again.](#)

<sup>16</sup> U.S. Federal Trade Commission, Decision and Order in the Matter of Twitter Inc., FTC Docket No. C-4316 May 26, 2022, pp. 3-14, [https://www.ftc.gov/system/files/ftc\\_gov/pdf/2023062C4316TwitterModifiedOrder.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/2023062C4316TwitterModifiedOrder.pdf).

<sup>17</sup> *Id.*, Section V, pp.4-8.

<sup>18</sup> *Id.*, Section XI.B, p. 11.

<sup>19</sup> *Id.*, Section V.E.1, p. 5.

<sup>20</sup> *Id.*, Definitions, Covered Incident, p. 2 and Section IX, pp. 10-11.

<sup>21</sup> Letter from Public Citizen President Robert Weissman and Public Citizen Big Tech Accountability Advocate Cheyenne Hunt to Federal Trade Commission Chair Lina Khan and U.S. Attorney General Merrick Garland, “Twitter’s Potential Violations of the FTC Consent Decree,” March 13, 2023, <https://www.citizen.org/article/twitters-potential-violations-of-the-ftc-consent-decree/>.

<sup>22</sup> New York Times, “Two Weeks of Chaos: Inside Elon Musk’s Takeover of Twitter,” Kate Conger, Mike Isaac, Ryan Mac, and Tiffany Hsu, November 11, 2022, <https://www.nytimes.com/2022/11/11/technology/elon-musk-twitter-takeover.html>.

<sup>23</sup> *Id.*

<sup>24</sup> New York Times, “Elon Musk Fires Twitter Employees Who Criticized Him,” Kate Conger, Ryan Mac, and Mike Isaac, November 15, 2022, <https://www.nytimes.com/2022/11/15/technology/elon-musk-twitter-fired-criticism.html>.

<sup>25</sup> New York Times, “Two Weeks of Chaos: Inside Elon Musk’s Takeover of Twitter,” Kate Conger, Mike Isaac, Ryan Mac, and Tiffany Hsu, November 11, 2022, <https://www.nytimes.com/2022/11/11/technology/elon-musk-twitter-takeover.html>.

<sup>26</sup> New York Times, “F.T.C Intensifies Investigation of Twitter’s Privacy Practices,” Kate Conger, Ryan Mac, and David McCabe, March 7, 2023, <https://www.nytimes.com/2023/03/07/technology/ftc-twitter-investigation-privacy.html>.

<sup>27</sup> The Verge, “Elon Musk is putting Twitter at risk of billions in fines, warns company lawyer,” Alex Heath, November 10, 2022, <https://www.theverge.com/2022/11/10/23451198/twitter-ftc-elon-musk-lawyer-changes-fine-warning>.

<sup>28</sup> New York Times, “Two Weeks of Chaos: Inside Elon Musk’s Takeover of Twitter,” Kate Conger, Mike Isaac, Ryan Mac, and Tiffany Hsu, November 11, 2022, <https://www.nytimes.com/2022/11/11/technology/elon-musk-twitter-takeover.html>.

<sup>29</sup> The Verge, “Elon Musk is putting Twitter at risk of billions in fines, warns company lawyer,” Alex Heath, November 10, 2022, <https://www.theverge.com/2022/11/10/23451198/twitter-ftc-elon-musk-lawyer-changes-fine-warning>.

had left Twitter since he became CEO.<sup>30</sup> And just last week, two of Twitter’s top safety executives—Ella Irwin, Twitter’s head of trust and safety and A.J. Brown, Twitter’s head of brand safety and advertising quality—resigned.<sup>31</sup> These personnel changes, firsthand accounts from employees, and hasty launch of new products raise questions about whether Twitter is able to comply with its obligations under the FTC consent decree. In apparent dismissal of concerns regarding reducing his workforce, Mr. Musk’s team has said he is “used to going to court and paying penalties, and was not worried about the risks.”<sup>32</sup>

Mr. Musk’s behavior reveals an apparent indifference towards Twitter’s longstanding legal obligations, which did not disappear when Mr. Musk took over the company. One employee highlighted his problematic behavior, stating, “Elon has shown that his only priority with Twitter users is how to monetize them,” and his personal lawyer Alex Spiro reportedly said, “Elon puts rockets into space – he’s not afraid of the F.T.C.”<sup>33</sup>

Regardless of his personal wealth, Mr. Musk is not exempt from the law, and neither is the company he purchased. Twitter must meet the requirements it agreed to under the 2011 and 2022 FTC agreements. If reports about Mr. Musk’s actions are correct, it appears that the company may not be doing so. Given our concerns about this matter, we ask that you provide answers to the following questions no later than June 18, 2023.

1. Section XI.B of the May 2022 modified consent decree requires Twitter to file a sworn compliance notice to FTC regarding certain changes in structure, such as sales, mergers, and change of ownership.<sup>34</sup>
  - a. Has Twitter filed this notice for any and all relevant changes in structure since May 2022?
  - b. How many employees were involved in meeting this requirement prior to Mr. Musk taking over in October 2022?
  - c. How many employees have been involved in meeting this requirement since Mr. Musk took over in October 2022?

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<sup>30</sup> Business Today, “Elon Musk confirms he has fired over 80% of Twitter employees so far,” Danny D’Cruze, April 12, 2023, <https://www.businesstoday.in/technology/news/story/elon-musk-confirms-he-has-fired-over-80-of-twitter-employees-so-far-377045-2023-04-12>.

<sup>31</sup> Reuters, “Twitter’s head of trust and safety says she has resigned,” Sheila Dang, June 1, 2023, <https://www.reuters.com/technology/twitters-head-trust-safety-says-she-has-resigned-2023-06-02/>; The Wall Street Journal, “Twitter Loses Second Safety Executive Within Days,” Suzanne Vranica and Patience Haggin, June 2, 2023, [https://www.wsj.com/articles/twitter-loses-second-safety-executive-within-days-1954a51e?mod=hp\\_lead\\_pos4](https://www.wsj.com/articles/twitter-loses-second-safety-executive-within-days-1954a51e?mod=hp_lead_pos4).

<sup>32</sup> New York Times, “Two Weeks of Chaos: Inside Elon Musk’s Takeover of Twitter,” Kate Conger, Mike Isaac, Ryan Mac, and Tiffany Hsu, November 11, 2022, <https://www.nytimes.com/2022/11/11/technology/elon-musk-twitter-takeover.html>.

<sup>33</sup> *Id.*

<sup>34</sup> U.S. Federal Trade Commission, Decision and Order in the Matter of Twitter Inc., FTC Docket No. C-4316, May 26, 2022, Section XI.B, p. 11, [https://www.ftc.gov/system/files/ftc\\_gov/pdf/2023062C4316TwitterModifiedOrder.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/2023062C4316TwitterModifiedOrder.pdf); Letter from Public Citizen President Robert Weissman and Public Citizen Big Tech Accountability Advocate Cheyenne Hunt to Federal Trade Commission Chair Lina Khan and U.S. Attorney General Merrick Garland, “Twitter’s Potential Violations of the FTC Consent Decree,” March 13, 2023, <https://www.citizen.org/article/twitters-potential-violations-of-the-ftc-consent-decree/>.

- d. Has Twitter’s ability to comply with this requirement been affected by any personnel changes?
        - i. If yes, has Twitter notified the FTC?
        - ii. If yes, what is Twitter doing to mitigate the effects on compliance?
2. Section V of the May 2022 modified consent decree requires Twitter to create and “maintain a comprehensive privacy and information security program.”<sup>35</sup>
  - a. Has Twitter maintained such a program since May 2022?
  - b. How many employees were involved in meeting this requirement prior to Mr. Musk taking over in October 2022?
  - c. How many employees are involved in meeting this requirement after Mr. Musk took over in October 2022?
  - d. Has Twitter’s ability to comply with this requirement been affected by any personnel changes?
    - i. If yes, has Twitter notified the FTC?
    - ii. If yes, what is Twitter doing to mitigate the effects on compliance?
3. Section V.E.1 of the May 2022 modified consent decree requires Twitter to conduct “an assessment of the risks to the privacy, security, confidentiality, or integrity” of users’ personal information prior to implementing any new or modified product.<sup>36</sup>
  - a. Did Twitter conduct such an assessment for the rollout of the revamped Twitter Blue?
  - b. Did Twitter conduct such an assessment for all other new or modified products since Mr. Musk purchased the company in October 2022?
  - c. How many employees were involved in meeting this requirement prior to Mr. Musk taking over in October 2022?
  - d. How many employees are involved in meeting this requirement after Mr. Musk took over in October 2022?
  - e. Has Twitter’s ability to comply with this requirement been affected by any personnel changes?
    - i. If yes, has Twitter notified the FTC?
    - ii. If yes, what is Twitter doing to mitigate the effects compliance?
4. Section IX of the May 2022 modified consent decree requires Twitter to report to the FTC within 30 days of any covered incident where personal information of 250 or more

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<sup>35</sup> U.S. Federal Trade Commission, Decision and Order in the Matter of Twitter Inc., FTC Docket No. C-4316, May 26, 2022, Section V, p. 4, [https://www.ftc.gov/system/files/ftc\\_gov/pdf/2023062C4316TwitterModifiedOrder.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/2023062C4316TwitterModifiedOrder.pdf); Letter from Public Citizen President Robert Weissman and Public Citizen Big Tech Accountability Advocate Cheyenne Hunt to Federal Trade Commission Chair Lina Khan and U.S. Attorney General Merrick Garland, “Twitter’s Potential Violations of the FTC Consent Decree,” March 13, 2023, <https://www.citizen.org/article/twitters-potential-violations-of-the-ftc-consent-decree/>.

<sup>36</sup> U.S. Federal Trade Commission, Decision and Order in the Matter of Twitter Inc., FTC Docket No. C-4316, May 26, 2022, Section V.E.1, p. 5, [https://www.ftc.gov/system/files/ftc\\_gov/pdf/2023062C4316TwitterModifiedOrder.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/2023062C4316TwitterModifiedOrder.pdf); Letter from Public Citizen President Robert Weissman and Public Citizen Big Tech Accountability Advocate Cheyenne Hunt to Federal Trade Commission Chair Lina Khan and U.S. Attorney General Merrick Garland, “Twitter’s Potential Violations of the FTC Consent Decree,” March 13, 2023, <https://www.citizen.org/article/twitters-potential-violations-of-the-ftc-consent-decree/>.

users “was, or is reasonably believed to have been accessed, acquired, or publicly exposed without authorization...”<sup>37</sup>

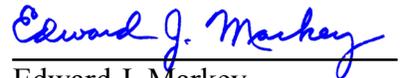
- a. Has Twitter met this requirement in all relevant cases since May 2022?
- b. How many employees were involved in meeting this requirement prior to Mr. Musk taking over in October 2022?
- c. How many employees are involved in this after Mr. Musk took over in October 2022?
- d. Has Twitter’s ability to comply with this requirement been affected by any personnel changes?
  - i. If yes, has Twitter notified the FTC?
  - ii. If yes, what is Twitter doing to mitigate the effects on compliance?

Thank you for your prompt reply.

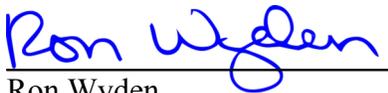
Sincerely,



Elizabeth Warren  
United States Senator



Edward J. Markey  
United States Senator



Ron Wyden  
United States Senator



Mazie K. Hirono  
United States Senator

<sup>37</sup> U.S. Federal Trade Commission, Decision and Order in the Matter of Twitter Inc., FTC Docket No. C-4316, May 26, 2022, Definitions, Covered Incident, p. 2 and Section IX, pp. 10-11, [https://www.ftc.gov/system/files/ftc\\_gov/pdf/2023062C4316TwitterModifiedOrder.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/2023062C4316TwitterModifiedOrder.pdf).