

July 2, 2026

Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue NW
Suite CC-5610 (Annex J)
District of Columbia 20580

Re: X Corp. Petition to Set Aside or Modify Order Concerning Twitter, Docket No. C-4316

The 15 undersigned public interest organizations strongly oppose the petition from X Corp.,¹ formerly known as Twitter, to set aside or terminate its 2022 settlement order (“2022 Order”) that resulted from the company engaging in deceptive practices against its users about its privacy and advertising practices. For all the reasons outlined below, X Corp.’s petition fails to clear the demanding legal standard necessary to grant the extraordinary action the corporation is requesting. To the contrary, X Corp. and its current leadership present a serious risk to Americans’ privacy and data security, demonstrating the need for continued Federal Trade Commission (“FTC” or “Commission”) oversight of the company under the 2022 Order.

The FTC should unequivocally reject X Corp.’s brazen attempt to escape accountability at the expense of the American people. The Commission should keep the 2022 Order wholly intact for the duration that the four bipartisan commissioners and the company originally negotiated and agreed to.

I. Background

The undersigned organizations are advocates for the public interest and routinely engage in efforts to advance consumer protection, cybersecurity, and privacy rights for all Americans, including children, teenagers, and senior citizens.

The Commission voted 4-0 to issue the 2022 Order.² In approving the 2022 Order, Republican Commissioners Wilson and Phillips stated the action was “years in the making” and that it reflected the FTC’s approach as developed over “two decades of vigorous privacy and data security enforcement.”³ Commissioners Wilson and Phillips highlighted that they modeled the 2022 Order’s privacy and information security program requirements on the Trump Administration’s obligations imposed on Facebook in 2019. The two Republicans praised the 2022 Order for providing “meaningful and effective relief” and noted that the “value of these types of injunctive provisions and accountability mechanisms has long been clear to us.”

¹ Petition To Reopen and Set Aside or, in the Alternative, Modify Decision and Order, *Twitter, Inc.*, Docket No. C-4316 (May 15, 2026), https://www.ftc.gov/system/files/ftc_gov/pdf/c4316twitterpetitionto_reopenpublic.pdf.

² “FTC Charges Twitter with Deceptively Using Account Security Data to Sell Targeted Ads,” Fed. Trade Comm’n (May 25, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/05/ftc-charges-twitter-deceptively-using-account-security-data-sell-targeted-ads>.

³ Concurring Statement of Commissioner Christine S. Wilson and Commissioner Noah Joshua Phillips, *Twitter*, Matter No. 2023062 (May 25, 2022), https://www.ftc.gov/system/files/ftc_gov/pdf/05-25-2022%20Twitter%20Joint%20Statement%20Wilson%20Phillips_0.pdf.

The 2022 Order was necessitated after X Corp. (then Twitter, Inc.) significantly and on a prolonged basis violated a previous settlement order that was ratified 5-0 by the FTC in 2011 (“2011 Order”).⁴ As the Department of Justice explained in 2022, “[f]rom at least May 2013 until at least September 2019, Twitter 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.”⁵ This alleged deception impacted more than 140 million users. Moreover, the 2022 Order noted that at the time, the company “still makes most of its money by directing advertisements to its users,” creating powerful incentives to resume its unlawful conduct.⁶ The unanimous and bipartisan nature of both FTC orders highlights the radical nature of the proposal X Corp. has presented to the Commission in this proceeding. In fact, Republican Commissioners Wilson and Phillips noted in 2022 the “bipartisan approval of this order, one very much in line with prior orders.”

II. X Corp.’s Current Practices Present An Ongoing Threat To Americans’ Privacy, Necessitating Continued Application Of The 2022 Order

The petitioner contends that the FTC should set aside the 2022 Order, citing “the company’s total transformation under new ownership.” To the contrary, this transformation under new ownership and proceeding developments underscore the necessity of proactive Commission oversight of this company under the 2022 Order. Just last year, 2.8 billion records leaked from the platform⁷ while the company’s CEO was simultaneously conducting an unprecedented extraction of millions of Americans’ sensitive information from the federal government, including the Social Security Administration.⁸ X Corp.’s flagship product since its identity change—a generative AI model called Grok—has created shocking amounts of child sexual abuse material (“CSAM”) and other nonconsensual sexual imagery. X Corp.’s generation of CSAM and other nonconsensual imagery was so egregious that it sparked several investigations and lawsuits, including by a bipartisan coalition of 35 state attorneys general⁹ and international law enforcement.¹⁰

⁴ “FTC Accepts Final Settlement with Twitter for Failure to Safeguard Personal Information,” Fed. Trade Comm’n (Mar. 11, 2011), <https://www.ftc.gov/news-events/news/press-releases/2011/03/ftc-accepts-final-settlement-twitter-failure-safeguard-personal-information>.

⁵ Complaint for Civil Penalties, Permanent Injunction, Monetary Relief, and Other Equitable Relief, *United States of America v. Twitter, Inc.*, Case No. 3:22-cv-3070, (N.D. Cal. May 25, 2022), https://www.ftc.gov/system/files/ftc_gov/pdf/2023062TwitterFiledComplaint.pdf.

⁶ *Id.*

⁷ “200 Million X User Records Released – 2.8 Billion Twitter IDs Leaked,” Forbes (Apr. 1, 2025), <https://www.forbes.com/sites/daveywinder/2025/04/01/hacker-claims-to-have-leaked-200-million-x-user-data-records-for-free/>.

⁸ “The Trump administration admits even more ways DOGE accessed sensitive personal data,” NPR (Jan. 30, 2026), <https://www.npr.org/2026/01/23/nx-s1-5684185/doge-data-social-security-privacy>.

⁹ Letter from 35 bipartisan attorneys general regarding artificial-intelligence produced deepfake nonconsensual intimate images by xAI, Office of the Attorney General, Commonwealth of Pennsylvania (Jan. 23, 2026), https://www.attorneygeneral.gov/wp-content/uploads/2026/01/2026-01-26-Letter-to-xAI_FINAL.pdf.

¹⁰ “ICO announces investigation into Grok,” United Kingdom Information Commissioner’s Office (Feb. 3, 2026), <https://ico.org.uk/about-the-ico/media-centre/news-and-blogs/2026/02/ico-announces-investigation-into-grok/>; “Commission investigates Grok and X’s recommender systems under the Digital Services Act,” European Commission (Jan. 26, 2026), <https://digital-strategy.ec.europa.eu/en/news/commission-investigates-grok-and-xs->

X Corp.’s foray into artificial intelligence development should prompt greater FTC oversight of the company’s privacy practices, not less. The largest companies developing generative AI, including X Corp., have all chosen to do so via collecting immense amounts of consumer data, often with no meaningful consent or transparency for the impacted Americans. Given this insatiable need for personal data, X Corp. faces a greater incentive to collect and use data from its social media platform for AI development.

This is not a hypothetical concern. X Corp. has already collected and used consumer data—including hundreds of millions of posts on the X platform—without meaningful or explicit user consent for the training of its AI models.¹¹ The incentive to feed its models is in addition to the long-standing motivation stemming from the misuse of consumer data for advertising revenue, which caused X Corp. to come under unanimous and bipartisan FTC settlement orders twice already.

III. X Corp.’s Arguments Fail To Justify The Extraordinary Action It Requests

A. X Corp. Has Not Met The Standard For Terminating The 2022 Order And Removing It Would Undermine The Commission’s Enforcement Authority

Section 5(b) of the FTC Act states that the Commission can only reopen and modify an order when there is a determination that the “conditions of fact or of law have changed as to require such action or if the public interest shall so require.”¹² The petitioner has a substantial burden to show that there have been significant changes of law or fact, that the order has become unnecessary, or that the termination would serve public interest. As the FTC recently explained, the “burden to establish a change in fact is high; [s]ubsequent changes in factual circumstances, if falling within the range of contingencies which were reasonably foreseen or foreseeable at the time of consent negotiations,’ are not sufficient.”¹³ A consent decree should only be modified when there is “nothing less than a clear showing of grievous wrong evoked by new and

recommender-systems-under-digital-services-act; “Elon Musk summoned to Paris after cybercrime unit raids X office,” USA Today (Feb. 3, 2026). <https://www.usatoday.com/story/tech/news/2026/02/03/elon-musk-summoned-paris-cybercrime-unit-raid-x-office/88486991007/>.

¹¹ “X’s (Twitter) Grok AI: How Elon Musk Trains AI on Your Tweets Without Asking,” Cambridge Analytica (Jan. 9, 2026), <https://cambridgeanalytica.org/guides/xs-twitter-grok-ai-how-elon-musk-trains-ai-on-your-tweets-without-asking-50284/>; “Here’s How To Stop X From Using Your Data To Train Its AI,” Forbes (July 26, 2024), <https://www.forbes.com/sites/johnkoetsier/2024/07/26/x-just-gave-itself-permission-to-use-all-your-data-to-train-grok/>.

¹² 15 U.S.C. § 45(b). <https://www.govinfo.gov/content/pkg/USCODE-2024-title15/pdf/USCODE-2024-title15-chap2-subchapI-sec45.pdf>.

¹³ Order Denying Petition to Reopen and Vacate or Modify FTC Consent Order, *In the Matter of Support King, LLC (SpyPhone.com)*, Docket No. C-4756 (Dec. 5, 2025), https://www.ftc.gov/system/files/ftc_gov/pdf/c4756spyphonecommorderdenyvetvacatweb.pdf [hereinafter “SpyPhone Order”]; see also *In re Phillips Petroleum Co., et al.*, 78 F.T.C. 1573 (1971); and *In re Rite Aid Corp.*, 125 F.T.C. 846, 1998 WL 34077376, at *3 (May 18, 1998) (“foreseeable” fact “does not constitute the change in fact necessary to compel reopening”).

unforeseen conditions.”¹⁴ The Commission has also expressly stated that the “petitioner’s burden is not a light one in view of the public interest in the repose and finality of Commission orders.”¹⁵

X Corp.’s petition falls well short of these requirements. The petition fails to show that there are any changes in law that have brought the consent decree into conflict with existing law.¹⁶ The company’s desire to expand artificial intelligence (AI) development and deployment should not supersede users’ privacy and security protections and does not create legal conflict. Additionally, the cost of compliance is a foreseeable consequence of the consent order—one that Musk knew of when purchasing the company, and one that he should have known might affect business development. As the Commission recently recognized, a company’s mere assertion that the settlement terms it negotiated and agreed to are too burdensome and costly does not justify a modification.¹⁷ The requirement to comply with a consent decree, including the costs associated with that order, are not a “grievous wrong,” but rather core to the FTC’s enforcement authority. Twitter’s consent decree continues to serve as a critical safeguard for users’ privacy and security¹⁸ and should not be reopened.

Notably, the FTC unanimously approved both the 2011 and the 2022 orders.¹⁹ And in 2024, the FTC notified Congress of an investigation into possible violations of Twitter’s consent decree based on reports that third-party individuals had been given unrestricted access to the company’s data and systems.²⁰ The Commission found that there was a “right to be concerned, given that Twitter’s new CEO [Elon Musk] had directed employees to take actions that would have violated the FTC’s Order.”²¹ A violation would have likely occurred, but “longtime information security

¹⁴ *United States v. Swift & Co.*, 286 U.S. 106, 119 (1932) (finding that even the decade-long transformation of the meat-packing industry caused by the rise of the grocery business was not a sufficiently significant change or sufficiently severe burden to merit modification of antitrust consent decree); *see also U. S. v. ITT Cont’l Baking Co.*, 420 U.S. 223, 237 (1975) (noting in context of FTC antitrust consent decree that consent decrees are treated as contracts for some purposes but not others, as they have attributes of both contracts and of administrative orders).

¹⁵ *See* Order Granting Petition to Reopen and Set Aside, *In the Matter of Chevron Corporation and Hess Corporation (Chevron/Hess)*, Docket No. C-4814 (Jul. 17, 2025) https://www.ftc.gov/system/files/ftc_gov/pdf/c4814chevronhessordervacatingorder.pdf; *see also Federated Department Stores, Inc. v. Moitie*, 425 U.S. 394 (1981) (strong public interest considerations support repose and finality).

¹⁶ *See* SpyPhone Order *supra*; *In the Matter of Union Carbide Corp.*, 108 F.T.C. 184, 1986 WL 722149, at *2 (1986) (denying a petition to modify because the moving party’s asserted change in law did not bring the order provisions into conflict with existing law).

¹⁷ *See* SpyPhone Order *supra*.

¹⁸ *See* Letter from Lina Khan *infra* note 20.

¹⁹ *See* “FTC Accepts Final Settlement with Twitter for Failure to Safeguard Personal Information,” Fed. Trade Comm’n (Mar. 11, 2011), <https://www.ftc.gov/news-events/news/press-releases/2011/03/ftc-accepts-final-settlement-twitter-failure-safeguard-personal-information>; *see also* “FTC Charges Twitter with Deceptively Using Account Security Data to Sell Targeted Ads,” Fed. Trade Comm’n (May 25, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/05/ftc-charges-twitter-deceptively-using-account-security-data-sell-targeted-ads>.

²⁰ Letter from Lina Khan, FTC Chair, to Jim Jordan, U.S. House of Representatives Committee on the Judiciary Chairman (Feb. 21, 2024), https://www.ftc.gov/system/files/ftc_gov/pdf/letterresponsekhanjordan20240221.pdf.

²¹ *Id.*

employees at Twitter intervened and implemented safeguards to mitigate the risks.”²² For X Corp. to argue that there has been no “near violation” of the terms of the consent decree is thus false.²³

If the Commission eliminates or significantly modifies this consent decree, it does not have an equivalent means of holding X Corp. accountable for its recidivist violations. Instead, the Commission would return to the baseline it has with any company, where it must investigate and establish entirely new cases for future violations from the ground up before it can act. The 2022 Order is an individualized order that is a customized, prospective, supervisory instrument that specifically obligates X Corp., which has already violated a prior FTC order, to maintain specific safeguards, submit to independent assessment, answer the FTC’s compliance demands, and so forth—with any future violation directly sanctionable by civil penalty and contempt.

X Corp. now asks the Commission to abandon its enforcement of these clear, individualized security and privacy mandates, effectively stripping away its most effective deterrence and accountability mechanisms that protect American consumers against a known repeat offender. This diminished baseline that X Corp. seeks is especially concerning in light of a recent U.S. Supreme Court decision which held that Section 13(b) does not authorize the FTC to obtain equitable monetary relief in federal court.²⁴ With that avenue narrowed, the 2022 Order remains among the most meaningful federal accountability tools left — exactly what X Corp. self-servingly asks the Commission to surrender. The Commission should reject the request.

As a broader matter, X Corp. is asking the Commission to turn away from the agency’s long record of defending consumers against threats to privacy and data security. Consent decrees serve several important functions, including remediating harms to consumers, permitting companies to avoid litigation by binding themselves to settlement terms, and putting the industry on notice that certain illegal practices will not be tolerated. The effectiveness of such orders will diminish if it becomes clear that companies can easily escape from their obligations. Indeed, if X Corp. has its way, the FTC will likely face a flood of petitions from companies looking to have their consent decrees dissolved. Not only would this undermine the Commission’s authority, it would impose an immense burden on the Commission and divert significant resources away from its critical enforcement and investigatory work. The Commission should deny the petition and continue to “steadfastly [maintain] that companies that collect, use, share, or transmit consumers’ personal data must employ reasonable security measures to protect such information from unauthorized access, use, or disclosure.”²⁵

²² *Id.*

²³ See Petition to Reopen and Set Aside or, in the Alternative, Modify Decision and Order, *In the Matter of Twitter, Inc.*, Docket Number C-4316, OSCAR No. 615468 (filed May 15, 2026), https://www.ftc.gov/system/files/ftc_gov/pdf/c4316twitterpetitionto_reopenpublic.pdf.

²⁴ See *AMG Cap. Mgmt., LLC v. FTC*, 141 S. Ct. 1341 (2021), https://www.supremecourt.gov/opinions/20pdf/19-508_16gn.pdf.

²⁵ See *SpyPhone Order supra*.

B. The 2022 Order Regulates Data And Privacy Practices, Not Protected Expression, And Provides No Instrument For Censorship

Decades of FTC law enforcement have made clear that the First Amendment does not exempt corporations from consumer protection requirements. Requiring X Corp. to protect the privacy of its consumers and demonstrate to regulators that it is fulfilling its legal obligations does not violate the First Amendment. In fact, the government has a substantial interest in protecting consumer privacy, the free expression that privacy enables, and restricting deceptive commercial claims.²⁶

Nonetheless, the petition attempts to recharacterize standard regulatory oversight as an infringement upon X Corp.'s First Amendment rights. Specifically, X Corp. argues that the compliance monitoring provisions of the 2022 Order could be turned against the platform and that *Moody v. NetChoice, LLC*, 603 U.S. 707 (2024) protects the company's editorial discretion. But neither argument identifies any First Amendment defect in the 2022 Order, which contains no provision that addresses X's viewpoints or content moderation. And well-tailored consumer privacy regulations of this kind are fully consistent with the First Amendment.

X Corp.'s primary evidence of alleged "weaponization" actually shows the 2022 Order functioning as intended and agreed to. When X Corp. (then Twitter) negotiated the 2022 Order, it assented to create a privacy and information security program (Sec. V of the 2022 Order)²⁷ and to comply with independent assessments (Sec. VI) and FTC monitoring (Sec. XI) to ensure compliance with that program. Specifically, that means the company consented to set up a program that identified "any third parties" that gained access to users' personal data, among other things (Sec. V(E)(3)(g)). X Corp. granting outside third parties access to internal corporate systems containing sensitive user data squarely triggers this provision. The FTC's subsequent inquiries regarding that third-party access were thus an exercise of the agency's oversight responsibilities, not an investigation into the social media platform's editorial viewpoints or decision-making. The FTC was and is well within its rights to monitor compliance with that privacy and information security program.

X Corp.'s agreed-upon compliance does not amount to an actual or threatened government attempt to influence the social media platform's editorial discretion or content-moderation decisions. The effect of acceding to X Corp.'s request would be to limit the FTC's ability to effectively hold the company accountable for harming the public, violating the law, and breaking its previous commitments. Granting the petition would do nothing to enhance the First Amendment rights of Americans, upon which the Commission's actions never encroached. A speculative risk that the 2022 Order's monitoring authority might someday be misused—a risk that can be addressed by existing mechanisms and tools like judicial oversight—also does not

²⁶ See *Nat'l Cable & Telecommunications Ass'n v. FCC*, 555 F.3d 996, 1001 (D.C. Cir. 2009) (discussing importance of consumer privacy); *Bartnicki v. Vopper*, 532 U.S. 514, 533 (2001) (discussing how privacy protections encourage free speech); *Cent. Hudson v. Pub. Serv. Comm'n of New York*, 447 U.S. 557, 563 (1980) (discussing harm of deceptive commercial speech).

²⁷ 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.

meet the legal standard for terminating it. In approving the 2022 Order, Republican Commissioners and Trump-appointed Wilson and Phillips stated “...it is important to be clear that this settlement has nothing to do with Twitter’s potential sale or new ownership, the company’s content moderation policies, or anything other than the facts alleged in the Complaint.”²⁸ The Commission should reject X Corp.’s attempt to retroactively inject First Amendment grievances into a settled data security and privacy order.

C. X. Corp.’s Successor Arguments Fail To Justify Releasing The Company From The 2022 Order

The petitioner’s successor arguments misrepresent both the nature of the legal precedents cited, *In re Nat’l Comics Publ’ns, Inc.*²⁹ and *In re Toys “R” Us, Inc.*,³⁰ and X Corp.’s current operational reality. As a basic matter, the 2022 Order—to which Twitter agreed—explicitly defines the “Respondent” bound by its terms as “Twitter, Inc. (‘Twitter’), and its successors and assigns.”³¹ This Order plainly binds X. Corp. as the surviving entity, and nothing in the petition or the precedents cited allows a corporate successor to extinguish an order by pointing to its successor status. Allowing a regulated entity to shed a federal order simply by executing an acquisition or corporate reorganization would render successor-binding clauses meaningless, turning routine corporate mergers or restructurings into a universal escape hatch for repeat offenders. In neither decision cited by X Corp. did the Commission terminate an order because the company in question had argued that it had become a different company.

Indeed, the petition misleadingly cites *In re Nat’l Comics Publ’ns, Inc.* for the proposition that the FTC vacates orders “after those entities were acquired and fundamentally reconstituted under new ownership”—but that is not why the order in that case was set aside. In that 1995 decision, the FTC terminated an order that had been in effect since 1960 for *thirty-five years* by invoking a “Sunset Policy Statement,” which presumes that the public interest requires terminating competition orders that are more than 20 years old.³² In other words, the *In re Nat’l Comics Publ’ns, Inc.* decision turned on the order’s age, not the petitioner’s identity. In contrast, the 2022 Order is merely four years old—which means that under the logic of *In re Nat’l Comics Publ’ns, Inc.*, the 2022 Order has at least sixteen more years to run.

²⁸ Concurring Statement of Commissioner Christine S. Wilson and Commissioner Noah Joshua Phillips, *Twitter Inc.*, Matter No. 2023062, page 7 (May 25, 2022). https://www.ftc.gov/system/files/ftc_gov/pdf/05-25-2022%20Twitter%20Joint%20Statement%20Wilson%20Phillips_0.pdf.

²⁹ Set Aside Order, *In re Nat’l Comics Publ’ns, Inc.*, Docket No. 7614 (Aug. 22, 1995). https://www.ftc.gov/sites/default/files/documents/federal_register_notices/national-comics-publications-inc-et-al-prohibited-trade-practices-and-affirmative-corrective-actions/950823nationalcomicspublications.pdf.

³⁰ Complaint, Opinion of the Commission, and Final Order, *In re Toys “R” Us, Inc.*, Docket No. 9278 (May 22, 1996-Oct. 13, 1998). https://appliedantitrust.com/06_conspiracy/z_case_studies/toys_r_us/1_ftc/toys_r_us_ftc_final_decision10_14_1998_bv.pdf.

³¹ Stipulated Order for Civil Penalty, Monetary Judgement, and Injunctive Relief, *United States of America v. Twitter, Inc.*, Case No. 3:22-cv-3070-TSH, page 3 (N.D. Cal. May, 26, 2022). https://www.ftc.gov/system/files/ftc_gov/pdf/ecf_11_stipulated_order.pdf.

³² Set Aside Order, *In re Nat’l Comics Publ’ns, Inc.*, Docket No. 7614 (Aug. 22, 1995). https://www.ftc.gov/sites/default/files/documents/federal_register_notices/national-comics-publications-inc-et-al-prohibited-trade-practices-and-affirmative-corrective-actions/950823nationalcomicspublications.pdf.

As for the *In re Toys “R” Us, Inc.* decision, the petition erroneously cites a 1998 antitrust ruling by the Commission to justify “granting modification of order following fundamental changes in the toy retail market.” That 1998 decision actually granted no modification at all,³³ and the Seventh Circuit upheld the FTC’s decision.³⁴ While the Commission did modify the 1998 order in 2014,³⁵ it did so after requiring Toys “R” Us to operate under the original order for nearly 16 years—in stark contrast to the mere 4 years since the FTC issued the 2022 Order for X Corp. As importantly, the 2014 *In re Toys “R” Us* order modification’s features defeat X Corp.’s arguments.

First, Toys “R” Us sought only a narrow modification that removed three paragraphs regarding supplier relationships; Toys “R” Us neither sought nor obtained changes in the order’s core prohibitions, let alone termination of the entire order. Second, the changed circumstance warranting the modification was a fundamental market shift—particularly the rise of mega-retailers Walmart and Target and the emergence of online retailers like Amazon.com—rather than any transformation of Toys “R” Us itself. Thus the *In re Toys “R” Us* case is inapplicable to X Corp. today, which remains as before in the exact same business of operating a social media platform, still utilizes user data for targeted advertising, and now has new uses and desires for consumer information in its AI business that make the 2022 Order’s oversight even more vital.

Finally, the exodus of the X Corp.’s senior executives who had overseen its past compliance failures is legally irrelevant because the FTC orders bind the corporate entity. Those obligations do not dissolve when the employees who negotiated or administered it depart. If wholesale turnover of compliance staff could extinguish an order, any respondent could evade its legal obligations through a reorganization. X Corp. also cannot simultaneously claim credit for a “new” privacy program while disclaiming the entity that built it and the 2022 Order that required it. The program that X Corp. now touts was constructed under the compulsion of the 2022 Order and validated by an independent assessor that the Commission approved. In other words, the company’s personnel turnover did not render the 2022 Order obsolete or superfluous.

D. The FTC Rightfully Held X Corp. Accountable For Deceiving Consumers, Violating The FTC Act, And Violating The 2011 Order

X Corp. contends that the factual predicate of the FTC’s 2022 complaint has been dismantled by a California Court of Appeal’s decision in *Yeh v. Twitter, Inc.* Because that state appellate court held that Twitter’s Privacy Policy did disclose its use of user contact data for advertising, X Corp. argues there was no underlying deception to justify the FTC’s core allegation.

³³ Opinion of the Commission [Public Record Version], *In re Toys “R” Us, Inc.*, Docket No. 9278, (Oct. 14, 1998). <https://www.ftc.gov/system/files/documents/cases/toyspubl.pdf>; For all FTC filings regarding the *In re Toys “R” Us, Inc.* matter, see <https://www.ftc.gov/legal-library/browse/cases-proceedings/091-0082-toys-r-us-inc>.

³⁴ *Toys “R” Us, Inc. v. FTC*, 221 F.3d 928 (7th Cir. 2000).

³⁵ “FTC Approves Toys ‘R’ Us Petition to Reopen and Modify 1998 Final Commission Order,” Fed. Trade Comm’n (Apr. 15, 1994). <https://www.ftc.gov/news-events/news/press-releases/2014/04/ftc-approves-toys-r-us-petition-reopen-modify-1998-final-commission-order>.

Consequently, the company argues the Order rests on a nullified legal premise and must be set aside.

This collateral attack is both procedurally improper and legally unsound. The *Yeh* decision is not settled law; it is an intermediate state appellate opinion that awaits review before the California Supreme Court. Even if the state decision were final, California’s unfair competition law standards evaluating the adequacy of a buried clause in a corporate policy or terms of service do not govern Section 5 of the FTC Act, which asks whether a platform’s representations at the specific point of data collection were deceptive to a reasonable consumer in context. When the FTC and the U.S. Department of Justice established the 2022 Order, X Corp. chose to accept those factual findings rather than litigate them. The company cannot now use a state court ruling regarding the disclosure premise that is still pending final resolution to erase the 2022 Order’s comprehensive, ongoing, and forward-looking federal data-handling obligations.

E. X Corp.’s Arguments About Other Legal Frameworks Fail Because These Laws Are Not Substitutes For Each Other

X Corp.’s attempt to dismiss the 2022 Order as a redundant and unnecessary expense—by pointing to its baseline obligations to international and state privacy frameworks—is both legally perilous and factually flawed.³⁶ X Corp. dubiously asserts that these different legal regimes serve the same consumer-protection purposes of a separate, twenty-year FTC-specific overlay.³⁷

Accepting X Corp.’s logic would effectively strip the FTC of its Section 5 enforcement authority over any large, multinational technology company. General statutory floors do not replicate the specific, targeted enforcement mechanisms provided by the 2022 Order, including a mandated privacy and information security program, direct mandatory breach reporting to the FTC, independent assessments approved specifically by the FTC’s Associate Director for Enforcement, and the threat of federal contempt authority for willful non-compliance.

Furthermore, X Corp. cannot credibly offer international frameworks like the European Union’s General Data Protection Regulation (GDPR) as a self-executing replacement for FTC oversight when its compliance under those very laws is under fire. The company’s recent unauthorized collection of European users’ data to train its Grok AI model without valid GDPR consent—which resulted in the Irish Data Protection Commission launching a formal inquiry³⁸—shows that external legal regimes are inadequate to protect consumers without the 2022 Order’s individualized federal guardrails. The regime X Corp. holds out as a sufficient substitute for the 2022 Order is thus the same one now investigating it for precisely the kind of consent-deficient

³⁶ Petition To Reopen and Set Aside or, in the Alternative, Modify Decision and Order, *Twitter, Inc.*, Docket No. C-4316, pages 14 (May 15, 2026).

https://www.ftc.gov/system/files/ftc_gov/pdf/c4316twitterpetitionto_reopenpublic.pdf.

³⁷ *Id.* page 15.

³⁸ “Data Protection Commission Announces commencement of inquiry into X Internet Unlimited Company (XIUC),” Ireland Data Protection Commission (Apr. 11, 2025). <https://www.dataprotection.ie/en/news-media/latest-news/data-protection-commission-announces-commencement-inquiry-x-internet-unlimited-company-xiuc>.

data use that the Order exists to prevent. That record is a reason to maintain federal oversight, not to end it.

These different legal regimes operate in parallel. They do not substitute for each other, and the companies subject to each framework answer to different regulators in different jurisdictions. The relevant legal question is not whether X Corp. bears overlapping obligations, but whether it has shown that the public interest warrants termination of the 2022 Order. Pointing to other legal regimes that do not supply the 2022 Order's protections does not make that showing.

F. True American AI Innovation And Leadership Prioritizes Americans' Privacy And Security

X Corp. claims that the 2022 Order imposes regulatory hardship that diverts critical engineering resources from AI research and development toward compliance paperwork. Invoking the White House's AI Action Plan, the company asserts that the Order is an outdated encumbrance that unduly burdens AI innovation and hinders America's ability to compete globally in the sector.³⁹

This argument fundamentally misunderstands or misrepresents the 2022 Order, as it does not prohibit or restrict X Corp. from developing artificial intelligence, training models, or competing in the AI market. Additionally, in approving the 2022 Order, Republican Commissioners Wilson and Phillips pointed out that they "reject the view that the provisions in orders like these constitute 'mere paperwork' that provide no meaningful restrictions or accountability." The 2022 Order does require the company to maintain adequate privacy and information security programs, conduct independent assessments, limit data access, and notify regulators of breaches. Contrary to the petitioner's hyperbolic claims, compliance with fundamental data-security requirements is a universal baseline for building public trust in AI systems, not an unreasonable burden on innovation.

Although X. Corp. claims that the 2022 Order imposes staggering and unjustified financial burdens, we further urge the Commission to evaluate the company's numbers in context. Specifically, X Corp. reports spending approximately \$15.6 million on legal and auditor fees, alongside roughly \$1 million in diverted staff hours, to comply with the order since 2022. That \$16.6 million over four years represents roughly 11 percent of the original \$150 million civil penalty X Corp. chose to pay for its underlying violations. This amount is also a rounding error against the \$200 *billion* valuation of X Corp. following the xAI merger.⁴⁰

As discussed previously, the business expense associated with compliance with an FTC order is a burden that the petitioner accepted when it agreed to the 2022 Order. It is neither a changed condition of fact nor an unforeseen hardship, and it does not, by itself, warrant reopening or terminating the order early. We urge the Commission to keep in mind that compliance costs are

³⁹ Petition To Reopen and Set Aside or, in the Alternative, Modify Decision and Order, *Twitter, Inc.*, Docket No. C-4316, pages 25-28 (May 15, 2026), https://www.ftc.gov/system/files/ftc_gov/pdf/c4316twitterpetitionto_reopenpublic.pdf.

⁴⁰ "Elon Musk's xAI raising \$10 billion at \$200 billion valuation: sources," CNBC (Sept. 19, 2025), <https://www.cnbc.com/2025/09/19/musks-xai-10-billion-at-200-billion-valuation.html>.

fully justified by the ongoing, irreplaceable consumer protections that the 2022 Order provides, including mandatory independent auditing and direct federal oversight of user data security.

IV. Conclusion

The undersigned public interest organizations strongly urge the Commission to retain its privacy oversight of one of the largest social media platforms in the world and to reject X Corp.’s petition.

Sincerely,

Center for Digital Democracy
Check My Ads Institute
Constitutional Alliance
Consumer Action
Consumer Federation of America
Consumers for Auto Reliability and Safety
Demand Progress Education Fund (“DPEF”)
Electronic Frontier Foundation (“EFF”)
Electronic Privacy Information Center (“EPIC”)
National Consumers League (“NCL”)
Oregon Consumer Justice
Oregon Consumer League
Public Citizen
Travelers United
Virginia Citizens Consumer Council

This comment was collaboratively drafted by the following organizations. Please direct any questions regarding this comment to the listed points of contact:

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⁴¹ NCL appreciates the contribution to these comments from NCL Public Policy Intern Julia Cicero (Catholic Law ‘28)