



Written by [Bob Adelman](#) on May 12, 2022

Two Federal Agencies Investigating Musk's Purchase of Twitter Shares

Just when he thought he might escape a federal investigation into his purchase of shares of Twitter, Elon Musk [now has two government agencies looking into his initial purchase](#) of shares of the social-media company back in March.

Open Markets Institute (OMI), a George Soros-backed liberal think tank, released a statement in April asking the Federal Communications Commission (FCC), the Department of Justice (DOJ), and the Federal Trade Commission (FTC) to look into Musk's takeover of Twitter. OMI said "it believes the deal poses a number of immediate and direct threats to American democracy and free speech. Open Markets believes the deal violates existing law, and that the [FCC], the [DOJ], and the [FTC] have ample authority to block it."



AP Images
Elon Musk

FCC commissioner Brendan Carr rejected the request:

The FCC has no authority to block Elon Musk's purchase of Twitter, and to suggest otherwise is absurd.... We will not entertain these types of frivolous argument[s].

In an interview with Fox News on Tuesday, Carr supported Musk's purchase:

I'm hopeful that Elon Musk is going to bend Twitter's content moderation toward a greater embrace of free speech.

No such support was forthcoming from the other two agencies. Instead, the FTC and the Securities and Exchange Commission (SEC) each have launched their own investigations into Musk's initial purchases of shares that were later followed by his offer to buy the entire company.

According to the *Wall Street Journal*, Musk violated an SEC rule requiring a timely disclosure of more than five percent of the company's outstanding shares. He had until March 24 to file that disclosure.

He didn't file it until April 4.

Daniel Taylor, an accounting professor at the University of Pennsylvania, thinks the SEC has a strong case against Musk but doubts that they will pursue it:

The case is easy. It's straightforward.



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But whether they're going to pick that battle with Elon is another question.

Musk got sideways with the SEC earlier when he Tweeted that he had arranged enough financing to take Tesla private. The SEC fined him \$20 million and requires him not to Tweet about Tesla without first getting his attorney's approval. Musk says the SEC pressured him into pleading guilty, threatening to bombard him and his company with endless lawsuits unless he complied.

Jill Fisch, a securities and law professor at the University of Pennsylvania's Law School, said that it's unlikely the SEC would attempt to derail the agreement at this late date. The board has already endorsed and approved the purchase, and the SEC lacks the power to stop such "take-private" transactions, according to Fisch.

Aron Solomon, the chief legal analyst for Esquire Digital, a lead-generating company for attorneys, agrees: "There is no way that the SEC, the DOJ, or any other similarly-situated body will even consider laying a finger on this deal." It is simply "too big to fail," said Solomon, adding that intervention "at this point would [hurt] the existing shareholders whose shares Musk is acquiring."

The Federal Trade Commission is also investigating Musk for failing to file certain reports to various anti-trust agencies that he was taking a substantial stake in Twitter. Those rules don't apply to passive investors, but when Musk filed that he was seeking to take over the company, the rules kicked in.

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