

# Australia fined X \$610,500. But will Elon Musk's company pay up?

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Author: Josh Taylor

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“Australia’s e-safety commissioner is the last thing on [Elon Musk’s] mind,” says Dr Belinda Barnet, a senior lecturer in media at Swinburne University. X, the platform owned by Musk, formerly known as Twitter, on Monday became the first online platform to be fined under Australia’s Online Safety Act, receiving a \$610,500 penalty after failing to answer questions about how it was tackling child sexual abuse material. But experts say the fine is unlikely to force X to improve its procedures, indicating better legislation is needed to elicit change. The infringement notice was issued after a marathon seven-month back-and-forth between X and the e-safety commissioner’s office, after which X failed to respond to some questions, such as the headcount of its safety team among other issues. After Musk took ownership of Twitter in November last year, he fired 80% of the staff globally, and now says the company no longer has a presence in Australia, raising questions about whether X could be compelled to pay the fine. [It is] very, very unlikely,” Barnet says. “X owes too much already in interest, and rent not paid.” X has faced several lawsuits over alleged failure to pay rent since Musk took over. One Australian-based company, Facilitate, took X to court in the US in July seeking more than A\$1m for work done at offices in London, Dublin, Sydney and Singapore. In August, X responded to the complaint denying that it had breached contracts, stating milestones had not been met. The case is still ongoing. If X does not pay the fine or does not comply with the request for information, the e-safety commissioner could seek a civil penalty from the federal court, which could lead to daily fines of up to \$782,000, backdated to February 2023, when the first notice was issued. Sign up for Guardian Australia’s free morning and afternoon email newsletters for your daily news roundup The e-safety commissioner, Julie Inman Grant, speaking at a SXSW event in Sydney on Monday, said the cost would be in the tens of millions of dollars if the maximum penalty was applied. It would then be up to the court to determine how to pursue X for the funds. Guardian Australia emailed questions to X on Wednesday and received an auto-reply in response. Inman Grant said regulation is just one tool to influence the conduct of corporations. “There are three key drivers to get companies to change their behaviour: reputation, regulation and revenue. “I think, in some ways, reputation as a driver for potential revenue are bigger drivers than regulation itself.” She said the fine might add up to the salary of a couple of engineers, but “it’s a step in the right direction”. The Facebook whistleblower Frances Haugen, speaking at the same event, said it would be a very bad look for X to “keep getting recurring child exploitation fines”. “For one fine, it’s like you didn’t know. Two fines is unlucky, but three fines – that’s a pattern.” Dr Jennifer Beckett, a senior lecturer at the University of Melbourne’s school of culture and communications, says multiple fines from multiple jurisdictions might compel X to act, but adds stronger powers like those in the EU’s Digital Services Act may have a bigger impact. “[Breaching] something like the Digital Services Act in Europe ... could technically end their capacity to operate in Europe, so they

could lose European users.” That would cost the company revenue, however Beckett admits losses wouldn’t be as substantial in a smaller market such as Australia. Rys Farthing, a policy and research director for digital platforms critic Reset.Tech Australia, says local regulators need better enforcement powers, suggesting higher fines – up to 10% of turnover – would work better for compliance. “Perhaps X sees such a small fine as a cost of doing business,” Farthing says. “Few other sectors accept this sort of brazen behaviour that so nakedly disrespects Australia’s laws and processes. “Preventing harmful content means baking risk mitigation into legislation that links to strong enforcement and meaningful penalties.” But Nic Suzor, a professor of law at QUT Law School and a member of Facebook’s oversight board, says whether or not X has business interests in Australia, it might come to the table in any case. “It’s pretty rare for a company like that to flat out refuse.”