

Elon Musk, Twitter, and the SEC

By: David Fang, J.D. Candidate 2021 | October 7, 2018

On September 28th, 2018, the [SEC sued Elon Musk](#) for securities fraud and sought [to ban](#) him from serving as an officer of any publicly traded company. The SEC's claims arise from Musk's August 7th tweet of "[funding secured](#)" to take Tesla private. In response to the tweet, Tesla's shares closed up [11 percent](#) from the previous day. The [SEC claims](#) that at the time Musk tweeted, he had not discussed specific deal terms with any potential financing partners and that he knew taking Tesla private was still uncertain. [Musk admits](#) that he posted the tweet while driving to the airport without anyone's review. His tweet also came after months of [sleeping in Tesla's factory](#) to ensure hitting Model 3 production targets while fending off angry investors.

Today, Twitter enables leaders to engage directly with the public. Musk often uses Twitter to make bold statements, promising his grand vision for the future realized through his innovative companies like Tesla, SpaceX, and The Boring Company. As a result, Musk has drawn millions of followers and is able to drive national discussions around innovation.

The rise of Twitter usage by leaders, 280 characters at a time and often unfiltered, is a significant shift from the carefully crafted statements of traditional communication. Tweets often promote reactionary behavior, counter to the stability and predictability the SEC and investors prefer. For example, the Nasdaq stock exchange was forced to suspend trading of Tesla's shares for [90 minutes](#) because Musk tweeted material information without informing Nasdaq.

Musk's latest controversy highlights how America continues to grapple with social media's impact on how people deliver and receive information. The [mission of the SEC](#) is to "protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation" through providing access to certain basic facts about an investment. Access to accurate information is at the heart of the SEC laws and rules. However, as the next generation of leaders rise with new technology and new norms of communication, the SEC will need to evolve while also staying true to its mission.

Eventually, under the pressure of his lawyers and investors of Tesla, Musk [settled](#) with the SEC. He will remain Tesla's CEO but must resign as chairman of the board for 3 years and pay a \$20 million fine.

