

Tweeting Misleading Information is Not an Acceptable Response to Short Sellers

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We recently wrote about short sellers being the scourge of public companies and the availability of a response from the SEC ([here](#)). The SEC has now made clear in an enforcement action against Elon Musk, the CEO of Tesla Inc., a favorite of short sellers, that a response that is not acceptable is releasing false and misleading information, even by tweet, to pump up the stock price ([here](#)). In this case, Musk tweeted in early August that he might take Tesla private at a substantial premium to the then current market price and that funding had been secured. The SEC alleges that these statements were made without an adequate basis. It is notable that the SEC's enforcement action was brought so quickly after the event. So far, the action is just against Musk and not the company. As part of the remedies, the SEC is seeking a bar on Musk acting as an officer or director of Tesla or any other public company, which is quite extraordinary given Musk's central role in Tesla and his other ventures.

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