

Connecticut Debate Association
October Tournament—Online
October 10, 2020

Resolved: the US should treat Chinese and US social media companies equally.
(Note: this means the US cannot set ownership requirements.)

Trump Administration to Ban TikTok and WeChat From U.S. App Stores

The New York Times, By Ana Swanson, David McCabe and Jack Nicas, Sept. 18, 2020

It issued new rules that will cripple the operation of two popular Chinese-owned apps in the United States.

WASHINGTON — The Trump administration said Friday it would bar the Chinese-owned mobile apps WeChat and TikTok from U.S. app stores as of midnight Sunday, a significant escalation in America’s tech fight with China that takes aim at two popular services used by more than 100 million people in the United States.

In a series of moves designed to render WeChat essentially useless within the United States, the government will also ban American companies from processing transactions for WeChat or hosting its internet traffic.

Similar restrictions will also go into effect for TikTok on Nov. 12 unless the company can assuage the administration’s concerns that the popular social media app poses a threat to U.S. national security. TikTok, which is owned by China’s ByteDance, is currently in talks with Oracle about a deal that could transfer some control to the American software maker. The Commerce Department said the prohibitions could be lifted if TikTok resolves the administration’s national security concerns by the November deadline.

The actions follow an Aug. 6 executive order in which President Trump argued that TikTok and WeChat collect data from American users that could be retrieved by the Chinese government. The administration has threatened fines of up to \$1 million and up to 20 years in prison for violations of the order.

TikTok, which does not directly operate in China, has become a wildly popular platform for sharing viral videos in the United States. WeChat is at the center of digital life in China, functioning as a chat app, a payment platform and a news source. It is a vital source of connection for the global Chinese diaspora, but also a conduit for Chinese propaganda and surveillance.

Friday’s move is the latest tangible sign that the global internet, which once promised to break down political borders and connect the planet’s citizens, is fracturing, driven by nationalism and security fears.

People in China, the world’s most populous nation, can’t use the world’s most popular products, including Google, Facebook, YouTube and WhatsApp. Soon, Americans won’t be able to use WeChat. And even TikTok, perhaps China’s most successful digital export, is now under threat in the United States and has already been banned in India.

TikTok spokesman Josh Gartner said in a statement that the company was disappointed in the Commerce Department’s decision.

“We will continue to challenge the unjust executive order, which was enacted without due process and threatens to deprive the American people and small businesses across the U.S. of a significant platform for both a voice and livelihoods,” he said.

Tencent Holdings, which owns WeChat, called the rules “unfortunate” and said it would “continue to discuss with the government and other stakeholders in the U.S. ways to achieve a long-term solution.”

Oracle did not respond to a request for comment.

While the government is ordering a ban on the apps, it will largely be up to Apple and Google — which make the software that backs nearly all the world’s smartphones — to remove the apps from their stores. The two companies could face civil or criminal penalties for failing to comply with the new rules.

Apple and Google did not respond to requests for comment. Both have said in the past that they comply with the local laws in each country they serve.

Commerce Secretary Wilbur Ross, in an interview on Fox Business Network on Friday morning, said that the ban would initially have a much greater impact on WeChat.

“For all practical purposes it will be shut down in the U.S., but only in the U.S., as of midnight Monday,” Mr. Ross said.

TikTok would also face some changes, but would still be allowed to function until Nov. 12, Mr. Ross said, at which point it would face a ban if there was no deal that satisfied the administration's concerns.

"As to TikTok, the only real change as of Sunday night will be users won't have access to improved updated apps, upgraded apps or maintenance," he said.

Mr. Trump, at a news conference Friday, said he thought a deal to keep TikTok operating in the U.S. could move "very, very fast."

"Maybe we can keep a lot of people happy but we have to have the total security from China," he said, adding that the administration was talking to Oracle, Walmart and Microsoft.

The Nov. 12 deadline for TikTok will allow users of the app — who are primarily young — to continue using the service ahead of the election. TikTok has increasingly become a political force, with users posting in support of their favored candidates and offering commentary on current events. It has also been utilized as a political tool — hundreds of teenage TikTok users claimed credit for low turnout at a rally for Mr. Trump in Tulsa, Okla., this year.

The order is not as draconian as some companies had feared. It won't affect the ability of multinational companies like Starbucks or Walmart to work with WeChat in China, where they commonly use the app as a payment platform. Major U.S. companies had pushed back against such a restriction with the Trump administration, saying it would put them at a disadvantage against Chinese competitors.

Still, the actions take aim at two of China's most popular and successful tech exports, which knit together nearly two billion people worldwide.

Many companies that will soon be barred from working with WeChat "are like the FedEx for the data business," said Charlie Chai, an analyst for 86Research, a research firm focused on Chinese companies. "If no FedEx is willing to carry the data package for WeChat, then WeChat is dead" in the United States.

The Chinese government had not issued any statements, and it was not immediately clear if China would retaliate. China has long blocked access to such American social media as Twitter, Facebook and WhatsApp that it cannot readily monitor or censor.

Apple could have the biggest target on its back in China if it agrees to carry out the administration's restrictions. Apple assembles most of its products there, and the country is Apple's biggest sales market after the United States.

Other tech companies responded to the announcement with concerns that the effort could prompt similar action by other countries, to the detriment of American firms. Adam Mosseri, who leads Facebook's Instagram product, said in a tweet that a TikTok ban "would be quite bad for Instagram, Facebook, and the internet more broadly."

Vanessa Pappas, TikTok's interim global head, said in a response to Mr. Mosseri that Facebook should "publicly join our challenge and support our litigation" against the ban. TikTok sued the Trump administration over the ban last month, arguing that the move had denied it of due process.

Tech companies have raised concerns about arbitrarily blocking apps without a clear policy process and have suggested it infringes on the First Amendment, said Adam Segal, a cybersecurity expert at the Council on Foreign Relations.

Mr. Segal said it was not entirely clear why the administration had chosen to go after these two Chinese services, and not other similar ones. "A lot of it just feels to me to be improvisational," he said.

In a call with reporters Friday, a senior official with the Commerce Department pushed back on the idea that a ban would curtail Americans' freedom of speech, saying the administration had targeted these apps in part because they are used to censor speech.

The Commerce Department declined to say whether the regulations could be used as a template for other Chinese companies, but noted that the secretary had the ability to prohibit additional transactions by the companies in the interest of national security.

The administration is already taking a wider scope to review Tencent's activities in the United States beyond WeChat. The government has sent letters asking a series of questions about data policies to several companies in which Tencent has partial ownership, including Spotify, Riot Games and Epic Games, the maker of the popular game Fortnite, according to people familiar with the situation.

Mr. Ross portrayed the threat from Chinese apps in stark terms, likening it to a window that allows Beijing to peer into the everyday lives of Americans.

"What they collect are data on locality, data on what you are streaming toward, what your preferences are, what you are referencing, every bit of behavior that the American side is indulging in becomes available to whoever is watching on the other side," he said. "That's what we're trying to squelch."

In its announcement, the Commerce Department said both WeChat and TikTok collected information from their users

including location data, network activity and browsing histories. As Chinese companies, they are also subject to China's policy of "civil-military fusion" and mandatory cooperation with Chinese intelligence services, it said.

Cybersecurity experts have debated the extent to which the bans would address national security threats. Many other Chinese-owned companies gather data from mobile users in the United States, as do Facebook, Google and other non-Chinese services.

TikTok has been downloaded nearly 200 million times in the United States, about 9 percent of the app's downloads outside China, according to Sensor Tower, an app analytics firm. WeChat has been downloaded nearly 22 million times in the United States since 2014, or about 7 percent of its downloads outside China.

Ahead of the Sunday deadline, people in the United States rushed to download WeChat. The app's rank in the chart of top free iPhone apps soared to No. 100 from 1,385 on Friday, according to Sensor Tower.

The U.S. ability to enforce the ban remains an open question, and it likely won't be clear until the coming weeks whether the government's effort to break the app has worked. Workarounds are likely to materialize. Users could switch their settings for access to an app store outside the United States, or switch to other Tencent apps, like a messaging service called QQ.

A Commerce Department official said Friday that the department's focus would be not on policing individual users but gradually limiting the ability of the apps to operate in the United States. The official declined to discuss enforcement but said the administration hoped to work with American tech companies, noting that "every company that this touches is becoming increasingly aware of the challenges that these applications pose."

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TikTok and the First Amendment

Slate: Future Tense, By GREGG LESLIE, SEPT 29, 2020

TikTok users have free speech rights—and courts should pay attention.

On Sunday evening, TikTok was granted another temporary reprieve when a judge blocked the Trump administration from banning it from app stores. But the app is still in a fight for its life as its Chinese owner, ByteDance, faces a deadline of Nov. 12 to either sell or spin off the U.S. arm of TikTok.

The Trump administration's Aug. 6 executive order banned TikTok and another Chinese app, WeChat, as a supposed national security threat. But as courts review the order, they aren't paying much attention to the First Amendment speech rights of TikTok users.

That's a major oversight, because the First Amendment should save TikTok. We just need the courts to agree.

TikTok first sought to fight back against the executive order in federal court in Los Angeles, where it is headquartered. But its arguments centered around the Fifth Amendment due process violations—the government was demanding a sale of the company, with some part of the proceeds going to the U.S. Treasury, without giving it a chance to defend itself from the charge that it was a national security threat. A minor argument included at the end said that the action violated First Amendment rights—but only those of the company in its computer code. The company dropped the suit last week as it sought to negotiate with U.S. buyers, including Oracle and Microsoft.

Then a similar suit popped up in federal court in San Francisco, brought by a TikTok employee, Patrick Ryan, who worried that cashing his paycheck could be an act of treason under the broad language of the president's order. (Disclosure: I'm the executive director of the First Amendment Clinic at the Sandra Day O'Connor College of Law at Arizona State University, which wrote a friend-of-the-court brief with the Electronic Frontier Foundation in this case; ASU is a partner with Slate and New America in Future Tense.) Again, the case relied on the Fifth Amendment, with no reference to the users' rights. But after the government promised not to enforce the order against employees for being paid by the company, the suit was rendered moot.

At least WeChat users saw a little respect from the federal court examining the similar attempt to shut down that service. On Sept. 20, the court was persuaded that because the service is the "primary source of communication and commerce" for its Chinese-American users—it provides news and social media activities in Chinese and allows contact with users in China, where other American social media platforms are restricted—the users had demonstrated serious First Amendment concerns that "are the equivalent of censorship of speech or a prior restraint" on the service..

But then again, that decision was just a preliminary injunction. And the Trump administration is now back in court to convince the judge to overturn the WeChat injunction, promising a secret filing this week to make the case that the service is a national security threat. So the First Amendment interests are still on thin ice.

But TikTok came back to court last week, this time in Washington, D.C., to again argue against the president's ban.

This time, TikTok expanded the First Amendment interests to include not just the company's code, but the company's role as a user and speaker on its own service, thus giving it a hook to argue for all users' First Amendment rights. TikTok argued that the executive order functions as a prior restraint of users' speech and must be subject to "strict scrutiny"—meaning it is only valid if it is justified by a compelling government interest. As a fallback, TikTok argued that because it affects speech, it must at least be subject to "intermediate scrutiny"—justified by a "substantial" government interest. (The difference between a substantial and a compelling interest is just the sort of question that keeps lawyers employed.)

And while the court granted the preliminary injunction Sunday evening after a rare weekend hearing, it didn't mention the First Amendment in its decision, instead relying on an exception to the International Emergency Economic Powers Act, which was the basis of the authority for the executive order, for "informational materials" and "personal communications."

These disputes over TikTok and WeChat come amid a much bigger conversation over the legal rights and obligations of social media companies, even as courts have made clear in recent years that these forums deserve strong legal protections. The U.S. Supreme Court in 2017 struck down a North Carolina law barring registered sex offenders from using the internet and social media platforms in *Packingham v. North Carolina*. But that decision's First Amendment findings were firmly rooted in a case from 20 years before, *Reno v. American Civil Liberties Union*, when "social media" as we know it today did not exist.

Partially quoting *Reno*, the court stated that, "While in the past there may have been difficulty in identifying the most important places (in a spatial sense) for the exchange of views, today the answer is clear. It is cyberspace—the 'vast democratic forums of the Internet' in general, and social media in particular." The court continued: "In short, social media users employ these websites to engage in a wide array of protected First Amendment activity on topics 'as diverse as human thought.'"

And TikTok takes things a step further. Posts made to the platform are widely shared and often connected by themes. In fact, it's the algorithm that chooses what to show a user that is credited with TikTok's popularity, and it's the ultimate ownership of that algorithm that is the sticking point in the sale of the company. With posts being viewed by thousands, if not millions, of strangers, the service has, as the *New York Times* reported, "become an information and organizing hub for Gen Z activists and politically-minded young people." Another *Times* article said it has "has amplified footage of police brutality as well as scenes and commentary from Black Lives Matter protests around the world, with videos created and shared on the platform frequently moving beyond it."

Much of the highest-profile political activism on TikTok has focused on President Trump. Most notably, a group of TikTok teens claim to have launched a campaign to inflate the attendance expectations at Trump's Tulsa, Oklahoma, rally in June. Another TikTok user, Sarah Cooper, has gained notoriety for her satirical posts about the president, where she points out what she sees as the absurdities of some of his statements merely by lip-synching short audio clips of his speeches.

So if the fight over TikTok involves politically controversial and socially active speech, but the legal battle centers on the Fifth Amendment claims and other statutory limits on presidential powers, the way to elevate the First Amendment interests is to emphasize to courts that the freedoms of the Bill of Rights are all tied together.

This means that when the court is considering a "due process" claim, but that claim has a fundamental and drastic effect on First Amendment rights, the speech interests "supercharge" the other constitutional interests and demand the highest standard of scrutiny under the law. This takes us back to the difference between strict and intermediate scrutiny, and the nature of the interest that must be demonstrated by the government. And thus, when the First Amendment is so clearly implicated, courts must always apply the strictest scrutiny, which generally means that the speech-restrictive law will fail this difficult test. So a law that completely shuts down a social media platform should never be tolerated.

The Supreme Court has most clearly recognized this interplay in the context of the

Fourth Amendment, in the 1965 case *Stanford v. Texas*. When a search warrant implicates First Amendment interests, the warrant requirement to "particularly describe the 'things to be seized' is to be accorded the most scrupulous exactitude when the 'things' are books. ... No less a standard could be faithful to the First Amendment freedoms."

These rights also require limited activity by the government, not sweeping decisions to shut down an entire social media platform. The high court held in 1963 that because the "First Amendment freedoms need breathing space to survive, government may regulate in the area only with narrow specificity." The court "will not presume that the statute curtails constitutionally protected activity as little as possible."

If there's a national security threat due to access to users' information by foreign powers, that access can be regulated consistent with the First and Fifth Amendments—by imposing controls on monitoring or reporting on user data, for instance. But the social media platform cannot be silenced.

Opinion: A TikTok Ban Is Overdue

The New York Times, By Tim Wu, Aug. 18, 2020

Critics say we shouldn't abandon the ideal of an open internet. But there is such a thing as being a sucker.

The United States government does not usually block or censor lawful websites, foreign or domestic, because it subscribes to the idea that the internet was designed to be open and connect everyone on earth. On its face, then, President Trump's recent treatment of the Chinese apps TikTok and WeChat, which he threatened to ban from the United States unless they could find American buyers, looks close-minded and belligerent.

There is more to this situation, though, than meets the eye. Were almost any country other than China involved, Mr. Trump's demands would be indefensible. But the threatened bans on TikTok and WeChat, whatever their motivations, can also be seen as an overdue response, a tit for tat, in a long battle for the soul of the internet.

In China, the foreign equivalents of TikTok and WeChat — video and messaging apps such as YouTube and WhatsApp — have been banned for years. The country's extensive blocking, censorship and surveillance violate just about every principle of internet openness and decency. China keeps a closed and censorial internet economy at home while its products enjoy full access to open markets abroad.

The asymmetry is unfair and ought no longer be tolerated. The privilege of full internet access — the open internet — should be extended only to companies from countries that respect that openness themselves.

Behind the TikTok controversy is an important struggle between two dueling visions of the internet. The first is an older vision: the idea that the internet should, in a neutral fashion, connect everyone, and that blocking and censorship of sites by nation-states should be rare and justified by more than the will of the ruler. The second and newer vision, of which China has been the leading exponent, is "net nationalism," which views the country's internet primarily as a tool of state power. Economic growth, surveillance and thought control, from this perspective, are the internet's most important functions.

China, in furtherance of this vision, bans not only most foreign competitors to its tech businesses but also foreign sources of news, religious instruction and other information, while using the internet to promote state propaganda and engage in foreign electoral interference. Though China is the pioneer of net nationalism, it is on the rise elsewhere, particularly in nations like Saudi Arabia and Iran and, more recently, Turkey and India.

For many years, laboring under the vain expectation that China, succumbing to inexorable world-historical forces, would become more like us, Western democracies have allowed China to exploit this situation. We have accepted, with only muted complaints, Chinese censorship and blocking of content from abroad while allowing Chinese companies to explore and exploit whatever markets it likes. Few foreign companies are allowed to reach Chinese citizens with ideas or services, but the world is fully open to China's online companies.

From China's perspective, the asymmetry has been a bonanza that has served economic as well as political goals. While China does have great engineers, European nations overrun by American tech companies must be jealous of the thriving tech industry that China has built in the absence of serious foreign competition (aided by the theft of trade secrets). At the same time, China has managed, to an extent many believed impossible, to use the internet to suppress any nascent political opposition and ceaselessly promote its ruling party. The idealists who thought the internet would automatically create democracy in China were wrong.

Some think that it is a tragic mistake for the United States to violate the principles of internet openness that were pioneered in this country. But there is also such a thing as being a sucker. If China refuses to follow the rules of the open internet, why continue to give it access to internet markets around the world?

None of this is to claim that when it comes to internet surveillance, the United States government or American tech firms are free from sin. Nor is it to defend the bellicose and unilateral manner in which Mr. Trump has handled TikTok and WeChat. He is the wrong figure to be fighting this fight, particularly because his inclinations are suspect. One imagines he might prefer an American internet designed to serve his propaganda needs. A better approach would be for more of the world to isolate China in concert.

But Mr. Trump's provocations do make one thing clear: We need to wake up to the game we are playing when it comes to the future of the global internet. The idealists of the 1990s and early '00s believed that building a universal network, a kind of digital cosmopolitanism, would lead to world peace and harmony. No one buys that fantasy any longer. But if we want decency and openness to survive on the internet — surely a more attainable goal — the nations that hold such values need to begin fighting to protect them.

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U.S. Joins Global Bid to Carve Up the Internet With TikTok Move

The Wall Street Journal, By Aaron Tilley, Sept. 21, 2020

The U.S., in effect, is following steps other governments have taken to treat their citizens' data as a national-security issue

The Trump administration's campaign to make Chinese-owned video-sharing app TikTok relocate to the U.S. is the latest example of the global fracturing of the internet.

President Trump over the weekend approved in principle a deal that would shift TikTok's headquarters and data to the U.S. Chinese owner ByteDance Ltd. and its investors, for now, remain the majority shareholder, with Oracle Corp. ORCL 0.34% taking a 12.5% stake in the new company, called TikTok Global, and Walmart Inc. WMT +0.94% owning 7.5%. Oracle will serve as a technology partner to assure the U.S. government that user data is safe, the companies have said.

With the move against TikTok, the U.S., in effect, is following steps a number of other governments have taken to treat their citizens' data as a national-security issue and impose restrictions on how data is stored and shared. Mr. Trump raised concerns that China's government could tap TikTok's data on American users because the app is Chinese-owned. TikTok has said it wouldn't share the information.

Treating user data as a matter of national security is a notion that has dictated many of the policies Beijing has put in place to control the internet in its country for the past decade. China operates what is called the "Great Firewall," limiting the services people in the country can use and the information they receive. Beijing stops people from accessing services run by Facebook Inc. and Alphabet Inc.'s Google, instead steering them toward Chinese-owned alternatives such as WeChat and Baidu Inc. that it controls increasingly tightly.

The idea that those data flows need tighter control has spread in recent years, resulting in a number of instances when governments temporarily shut down the internet. Governments have a range of motivations, from squelching internal dissent to protecting their citizens' privacy.

The European Union, which put in place strict conditions on overseas data transfers two decades ago, has broadly tightened its safeguards for its residents' information with its General Data Protection Regulation. India has followed, erecting roadblocks through special requirements for how U.S. tech companies structure their operations and handle data collected from Indian customers. India this summer also banned dozens of Chinese apps, citing national-security concerns, amid a lethal border skirmish with China.

Video-sharing app TikTok has come to rival some of the world's most popular social-media platforms in just a few years. WSJ looks at how Chinese startup ByteDance took TikTok to the masses and why it attracted regulatory scrutiny. Video/illustration: Jaden Urbi/WSJ

Those measures can come with high costs for tech companies, many based in the U.S. and China, that are built on an internet with few borders. Google pulled out of China a decade ago, losing access to the vast market. Facebook, blocked in China, could face a potential multibillion-dollar fine in Europe over its data practices. Microsoft Corp., which also vied for TikTok, in China limits content on its Bing search engine and LinkedIn business-focus social-networking site.

"U.S. tech companies have far more to lose if this becomes a precedent," said Aaron Levie, chief executive of Redwood City, Calif.-based Box Inc., a fast-growing cloud-computing company. "This creates a Balkanization of the internet and the risk of breaking the power of the internet as one platform."

Some U.S. lawmakers, for some time, have urged the government to retaliate for China's efforts to exert control over the internet. Even before the U.S. took steps to force changes around TikTok's data, U.S. national-security officials ordered another Chinese company to sell gay-dating app Grindr, citing the risk that the personal data it collects could be exploited by Beijing to blackmail individuals with security clearances, according to people familiar with the situation.

The drama around TikTok and its 100 million American users was far higher, though, with President Trump threatening to shut down the app absent a sale. By targeting TikTok as well as WeChat, the ubiquitous-in-China messaging and payments app owned by Tencent Holdings Ltd., Washington has effectively enacted measures to create data-privacy rules, but in a way that can be difficult for companies to handle, said Paul Triolo, head of the global technology policy practice at Eurasia Group, a political-risk consulting firm.

"With these actions, the U.S. is basically making up a rule that no Chinese person or government can have access to the data of a U.S. citizen," Mr. Triolo said. But, he said, "trying to set up a data-protection regime using executive orders is really messy, as this whole thing is turning out to be."

Adam Mosseri, chief executive of Facebook's Instagram, tweeted on Friday that a U.S. ban on TikTok "would be quite bad for Instagram, Facebook, and the internet more broadly."

It isn't just the U.S. and China that eye each other with distrust. The European Union's top court in July struck down one of the main legal mechanisms companies use to store information about EU residents on U.S. servers, arguing that such transfers exposed Europeans to American government surveillance without "actionable rights" to challenge it. The ruling also restricted another legal mechanism companies had used as a backup, leading an EU privacy regulator to start the process of ordering Facebook to cut off EU-U.S. personal-data flows, which the company is appealing. The legal challenge that spurred the July ruling dates to the 2013 leaks of alleged U.S. surveillance practices revealed by former National Security Agency contractor Edward Snowden that showed some U.S. companies were sharing user information with the government.

U.S. concerns about China have increased in recent years, in part driven by the massive hack of records held by the Office of Personnel Management in 2015 that exposed sensitive data on millions of Americans. The U.S. suspected China was behind the attack, which Beijing denied.

The U.S. action on TikTok has enraged the Chinese government. "Without any evidence, they have been abusing national power under the pretext of national security to suppress and coerce non-American companies that have a cutting edge of a particular field," said Wang Wenbin, a spokesman for the Chinese Foreign Ministry, last week.

The Trump administration also said it was moving against TikTok to keep Americans safe from online misinformation, an argument defenders of China's heavy-handed approach to controlling access to online content in defense of the country's policies also put forward.

To help address those concerns, TikTok Global won't just have U.S. investors, but four of its five board members will be American.

That construct could be a useful precedent for other companies as they try to determine what arrangements may be acceptable to Washington, said Winston Wenyan Ma, formerly a managing director at China Investment Corp., the country's sovereign-wealth fund, and now an adjunct professor at New York University's School of Law.

But the TikTok situation that still has many unanswered questions isn't likely to resolve all uncertainties, he said. "In this new world, one case can't solve everything."

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Chinese State Media Signal Beijing's Disdain for 'Dirty and Unfair' TikTok Deal

The Wall Street Journal, by Eva Xiao, Sept. 23, 2020

Editorials say loss of corporate control of app undermines China's interests

HONG KONG—Chinese state media took turns denouncing a White House-approved plan to turn TikTok into a U.S.-based company, casting more doubt over the fate of the Chinese-owned short-video app that needs nods from both Beijing and Washington to avoid a ban in the U.S.

Over the weekend, TikTok appeared to narrowly avoid having to shut down operations in the U.S., where it has roughly 100 million users, when President Trump said he had given his blessing to a deal that would see the app join with Oracle Corp. and Walmart Inc. to address the White House's national security concerns.

Several Chinese state-run newspapers slammed TikTok's proposed deal in the U.S. as unfair and contrary to Chinese interests, a signal Beijing could reject the deal after months of negotiations.

"China has no reason to give the green light to such a deal, which is dirty and unfair and based on bullying and extortion," wrote the China Daily, the Chinese government's English-language mouthpiece newspaper, in an editorial on Wednesday. Doing so would set a bad precedent, it argued. "If the U.S. gets its way, it will continue to do the same with other foreign companies," it said.

The overseas edition of the Communist Party's flagship newspaper People's Daily and the Global Times, a tabloid published by the People's Daily, ran similar editorials this week.

The tech battle between the U.S. and China has battered TikTok and Huawei and startled American companies that produce and sell in China. WSJ explains how Beijing is pouring money into high-tech chips as it wants to become self-sufficient. Video/Illustration: George Downs/The Wall Street Journal

TikTok, which is owned by Beijing-based ByteDance Ltd., has taken center stage in U.S.-China friction over technology, with both countries sparring over the app's future. In July, the Trump administration said it might ban the app for Americans because of concerns its data could be accessed by Beijing, something TikTok has said wouldn't

happen.

At the end of August, Beijing hit back with new technology-export rules, indicating that ByteDance would need to seek approval if it sold TikTok's video recommendation algorithm—the secret sauce behind the app's notoriously addictive video feeds—to a U.S. buyer. Under the preliminary agreement, the algorithm wouldn't change hands as part of the deal.

While TikTok's deal with Oracle and Walmart, which would form a new entity called TikTok Global, earned Mr. Trump's signoff over the weekend, the deal remains in flux, with participants publicly disagreeing over its terms.

A spokesman for ByteDance Ltd. said Sunday it would retain an 80% stake outright, while Oracle said on Monday morning the 80% would be distributed proportionally to ByteDance's current shareholders, which include U.S. investors, and that ByteDance would have no ownership in TikTok Global.

In an editorial titled "Say 'No!' to U.S. Robbery of TikTok," the Global Times expressed a view of the tussle over American versus Chinese ownership in TikTok Global, which would provide services to TikTok's current users in the U.S. and most of the world outside China.

Warning that U.S. majority ownership of TikTok Global under the terms described by Oracle on Monday would allow the U.S. to take control of TikTok's global business and potentially cut off Chinese access to it, the tabloid said the deal exposed "Washington's bullying style and hooligan logic."

Allowing such a deal could also have longer term effects, argued the People's Daily in a Wednesday editorial, which said ByteDance's loss of corporate control over TikTok would "cause serious damage to China's national security, dignity, and the long-term development of related enterprises."

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TikTok Deal Exposes a Security Gap, and a Missing China Strategy

The New York Times, By David E. Sanger, Sept. 20, 2020

Technological progress has outpaced the political debate again. What will happen when the next TikTok arrives in the United States?

WASHINGTON — President Trump has declared victory in his latest confrontation with China, saying that he headed off a looming national security threat by forcing the sale of the social media app sensation TikTok to a consortium of American, European and — though he does not say so — Chinese owners.

But it is far from clear from the details released so far that Mr. Trump's deal resolves the deeper TikTok security problem — which has less to do with who owns the company and more with who writes the code and the algorithms. The code and algorithms are the magic sauce that Beijing now says, citing its own national security concerns, may not be exported to to a foreign adversary.

And the deal certainly doesn't resolve the broader problem in the expanding technology wars between Washington and Beijing: how the United States government should deal with the foreign apps that are now, for the first time, becoming deeply embedded on the screens of Americans' smartphones, and thus in the daily fabric of American digital life.

TikTok illuminated the scope of the new competition. The United States wants to have it all. It seeks to reap the benefits of a global internet yet limit its citizens to made-in America products, ensuring that the data that flows through American networks is "clean." In fact, the State Department has begun what it calls "the clean network initiative," making sure that data is not tainted by adversaries, starting with China.

"This is a really hard problem and bashing TikTok is not a China strategy," Amy Zegart, a senior fellow at the Hoover Institution and Stanford's Freeman-Spogli Institute. "China has a multi-prong strategy to win the tech race," she said. "It invests in American technology, steals intellectual property and now develops its own technology that is coming into the U.S.," as TikTok did with remarkable success in just two years.

"We don't have to guess what their intentions," she said. "They have written what their intentions are, and it's called 'Made in China 2025,'" the country's strategy of becoming a peer competitor of the United States in all major technological arenas in the next five years. "And yet we think we can counter this by banning an app. The forest is on fire, and we are spraying a garden hose on a bush."

If American politicians seem to be behind on this one, perhaps it is because technological progress has once again outpaced the political debate. On Capitol Hill, the China problem many politicians still fume about is cheap Chinese goods, ignoring the fact that China's labor is no longer inexpensive. Others call for crackdowns on intellectual property theft, a problem that George W. Bush tried to tackle with his Chinese counterpart in the Great Hall of the People 15 years ago, and that Barack Obama and President Xi Jinping, then new as China's president, declared they had solved

five years ago.

Of course, they didn't. China shifted its hacking operations from units of the People's Liberation Army — some indicted by the Justice Department — to the Ministry of State Security. In recent days, the F.B.I. has warned of broader surveillance and theft operations on American campuses, much of it aimed at coronavirus vaccines.

TikTok presented an entirely new problem, one that most policymakers in the United States had not contemplated before.

For the first time, a genuine Chinese app — not a knockoff of something invented in the United States or Europe — captured the hearts of American teenagers and millennials. On one level, it was harmless: TikTok is mostly jammed with one-minute dance videos. By many measures, it was a bigger parenting problem than a national security problem. Whatever it was, it clearly wasn't on Washington's radar the way that the expansion of China's nuclear arsenal, or its actions in the South China Sea, dominate the China debate.

Yet as Brad Smith, the president of Microsoft, which competed with Oracle to buy TikTok's operations in the United States, noted, "there is a potential threat." To make TikTok tick, the company collects vast amounts of data on Americans' viewing habits. And the same algorithm that picks your next dance video could, in the future, pick a political video. (There is already more than a whiff of political content on the app.)

Like Oracle, Microsoft would have taken over the storage of all data on Americans, keeping it in the United States. (TikTok currently has a major data server in Virginia, but backs up data in Singapore.) But Microsoft's bid went further: It would have owned the source code and algorithms from the first day of the acquisition, and over the course of a year moved their development entirely to the United States, with engineers vetted for "insider threats."

So far, at least, Oracle has not declared how it would handle that issue. Nor did President Trump in his announcement of the deal. Until they do, it will be impossible to know if Mr. Trump has achieved his objective: preventing Chinese engineers, perhaps under the influence of the state, from manipulating the code in ways that could censor, or manipulate, what American users see.

"If Oracle is providing hosting with the majority of engineering and operations staying with ByteDance, then the only effect of this deal was to swing billions of dollars of cloud revenue," said Alex Stamos, who runs the Stanford Internet Observatory. "The details of the deal will really matter, and so far the public has not been provided with enough information to have an educated opinion."

Without that issue resolved, it is unclear how Mr. Trump could declare that the security issues are solved, much less how he could say that the new entity "will have nothing to do with China."

The longer-run issue, however, is that there will be more TikToks, companies around the world that develop apps that Americans love — or see as a hedge against their own government. Already, many Americans use encryption apps, like Telegram, that are based outside the United States, so that the United States would have a more difficult time issuing subpoenas for the content. Attorney General William P. Barr has already called for greater scrutiny — and perhaps abolition — of any such app that does not allow the United States a legal "back door."

It seems unlikely that any administration — Democrat or Republican — could actually succeed at banning foreign apps whose code they found suspicious or difficult to access. It would be as problematic to enforce as Prohibition, which lasted 14 years in the United States before it was repealed, by constitutional amendment.

But the bigger issue is that the movement to ban Chinese apps — the next target is WeChat, which was going to be cut off by executive order on Sunday until a federal judge intervened, at least temporarily — defeats the original intent of the internet. And that was to create a global communications network, unrestrained by national borders.

"The vision for a single, interconnected network around the globe is long gone," Jason Healey, a senior research scholar at Columbia University's School for International and Public Affairs and an expert on cyber conflict. "All we can do now is try to steer toward optimal fragmentation."

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