

TikTok: Recent Data Privacy and National Security Concerns

March 29, 2023

On March 23, 2023, TikTok CEO, [Shou Zi Chew](#), testified during a House Energy and Commerce Committee [hearing](#) on TikTok’s potential threats to data privacy, national security, and children’s online safety. TikTok is a social media application (app) for creating and sharing short videos, with over [150 million users](#) in the United States, according to TikTok estimates. TikTok Ltd., with headquarters in Los Angeles and Singapore, is a subsidiary of ByteDance Ltd., a privately held company headquartered in Beijing, China. Both TikTok Ltd. and ByteDance Ltd. are incorporated in the Cayman Islands, according to an updated [corporate structure](#) released on March 15, 2023. TikTok has faced [scrutiny from policymakers](#) for its potential privacy and national security risks. Critics allege the government of the People’s Republic of China (PRC) [influences ByteDance](#) and may control content shown to users or compel TikTok to [turn over user data](#) in accordance with various PRC laws that [govern cyber and data security](#). TikTok has [denied](#) these allegations.

Issues and Concerns

Critics are concerned TikTok collects [sensitive data on U.S. users](#) and may enable the PRC government to conduct influence operations to shape public opinion. Technology companies operating in China—including ByteDance—are subject to the PRC’s various cybersecurity and data security laws, which [enable](#) the government to compel data access and require data be stored and processed in China. In his testimony to Congress on March 23, 2023, TikTok’s CEO [stated](#) allegations TikTok shares U.S. user data with the PRC are “emphatically untrue.” According to Chew, U.S. user data will be segregated from operations and employees in China through a \$1.5 billion dollar company initiative called “[Project Texas](#).” However, some critics have [voiced skepticism](#) about the project.

Data Collection, Storage, and Access. Some [critics](#) argue TikTok’s data collection is excessive, while others contend that its practices are similar to other social media companies, such as Facebook or Twitter. Some [researchers](#) claim any threat posed by TikTok is “one that applies to all social media, regardless of the provider’s national origin.”

TikTok has [stated](#) that all U.S. user data is now stored in U.S. and Singapore data centers. However, according to a 2022 [Buzzfeed investigation](#), ByteDance employees in China “repeatedly” accessed nonpublic U.S. user data.

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In CEO Chew's written [testimony](#), he claimed University of Toronto researchers "found that there was no overt data transmission by TikTok to the Chinese government." However, the researchers [challenged](#) the company's characterization, [stating](#) their analysis had "no visibility into what happened to user data once it was collected and transmitted back to TikTok's servers."

Influence over Content. National security officials have raised concerns that the PRC may [influence content shown to U.S. citizens](#) through TikTok's content moderation and recommendation algorithms. Some Members [contend](#) that the PRC may influence TikTok to promote misinformation and propaganda or censor content.

As part of Project Texas, Oracle is reportedly auditing TikTok's [algorithms](#) to ensure that U.S. user data is safe from manipulation. Oracle is a U.S.-based company that provides cloud infrastructure for TikTok's U.S. user data.

Recent Developments

Federal and State Bans. The [Consolidated Appropriations Act, 2023](#) (P.L. 117-328), banned TikTok and other ByteDance services on executive agency devices. Many [states](#) have also banned the app on some or all state-owned devices.

Executive Orders and Divestiture. The Trump Administration [issued two executive orders](#) targeting TikTok and WeChat (a China-based messaging service) operations in the United States. Courts issued preliminary injunctions against two of the executive orders (E.O. 13942 and 13943), which the Biden administration [withdrew](#) in 2021. The [divestment order](#) still stands but has not been enforced in court.

Since 2020, the Committee on Foreign Investment in the United States ([CFIUS](#)) has been negotiating with TikTok to allow continued U.S. operations under certain obligations. In a similar case, a PRC company [previously divested](#) its stake in dating app Grindr due to a CFIUS investigation and security concerns around user data.

The Biden Administration [has reportedly demanded](#) PRC divestiture from TikTok. The PRC's Ministry of Commerce [responded](#) that it would "firmly oppose" a forced sale. For additional discussion of CFIUS and the executive orders, see [this](#) CRS Legal Side Bar.

Congressional Considerations

Congress may consider several options in response to possible risks posed by TikTok.

- **Total Ban.** If Congress wishes to ban TikTok use in the United States, it may consider several questions. What additional authorities or changes to existing authorities are necessary? How might these be realized, such as by amending the International Emergency Economic Powers Act to allow the President to ban TikTok through executive order or by amending [CFIUS processes](#)? Does a total ban of TikTok [implicate](#) the First Amendment? Congress may also consider whether a ban is technically feasible and enforceable.
- **Forced Sale.** Congress may wish to consider whether CFIUS or another federal entity could require ByteDance to sell off its TikTok subsidiary to a U.S. company and potential implications for private sector competition.
- **Beyond TikTok.** Congress may consider how efforts to limit or restrict TikTok may affect other information and communication technology (ICT) platforms. For example, S. 686, the [RESTRICT Act](#), would create new authorities for the Secretary of Commerce to review and prohibit certain ICT-related transactions with foreign entities. S. 686 has received statements of support from the [White House](#) and [Department of Commerce](#).

- Other bills—such as the [No TikTok on United States Devices Act](#)—have focused solely on restricting TikTok or specific companies from China.
- **Data Privacy.** Congress may consider legislative proposals that attempt to protect U.S. users’ data privacy. Some observers have [noted](#) the enactment of data privacy laws could affect the data collection and sharing practices of TikTok and other technology companies. Members have previously introduced broad comprehensive privacy legislation—such as H.R. 8152, the [American Data Privacy and Protection Act](#), and S. 3195, the [Children’s Online Protection Act](#)—while others have introduced bills to restrict how certain entities, like data brokers, sell and transfer data to foreign countries (S. 4281). Other bills, such as S. 4495, attempt to establish export controls on U.S. data to other countries, or to create disclosure and transparency requirements.

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