



MEMORANDUM

March 5, 2024

To: Members, Energy and Commerce Committee
From: Bipartisan Committee Staff
Re: Hearing Entitled “Legislation to Protect Americans from the National Security Threat Posed by Foreign Adversary Controlled Applications”

I. INTRODUCTION

On Thursday, March 7, 2024, at 10:00 a.m. (ET), the Committee on Energy and Commerce will hold a hearing in 2322 Rayburn House Office Building titled “Legislation to Protect Americans from the National Security Threat Posed by Foreign Adversary Controlled Applications.” It is expected that there will be a motion to go into a classified executive session, that there will be a brief recess, and that Committee Members will reconvene in 2123 Rayburn House Office Building. Only approved staff with the requisite SCI clearance will be permitted to attend.

II. WITNESSES

All witnesses were agreed to on a bipartisan basis by Committee staff. Witnesses are expected from the following entities:

- Federal Bureau of Investigation (FBI)
- Department of Justice (DOJ)
- Office of the Director of National Intelligence (ODNI)

III. BACKGROUND

The People’s Republic of China (PRC) National Intelligence Law of 2017 requires PRC individuals and entities to support PRC intelligence services, including by providing data without regard to where that data was collected and without any mechanisms of due process.¹ Beijing ByteDance Technology is a Chinese internet technology company headquartered in Beijing and operating in the United States through a holding company

¹ U.S. DEPARTMENT OF HOMELAND SECURITY, OFFICE OF STRATEGY, POLICY & PLANS, DATA SECURITY BUSINESS ADVISORY: RISKS AND CONSIDERATIONS FOR BUSINESSES USING DATA SERVICES AND EQUIPMENT FROM FIRMS LINKED TO THE PEOPLE’S REPUBLIC OF CHINA at 6 (December 22, 2020), https://www.dhs.gov/sites/default/files/publications/20_1222_data-security-business-advisory.pdf/

(“ByteDance Ltd.”) incorporated in the Cayman Islands.² ByteDance Ltd. was formed in 2012 and launched a number of applications and products which became extremely popular in the Chinese market, including TikTok.³

TikTok is now one of the most popular social media platforms in the world. It is available in over 150 countries and serves over 1 billion users.⁴ In the United States, TikTok has over 170 million users and is especially popular among teenagers and young adults who represent 35 percent of its American user base.⁵ The heads of the Central Intelligence Agency (CIA) and the Federal Bureau of Investigation (FBI) have indicated that ByteDance Ltd.’s ownership of TikTok presents a threat to U.S. national security.⁶ As the Committee continues its work to pass comprehensive data privacy and security protection, this hearing will consider legislation that would address an imminent threat and protect against the growth of other foreign adversary controlled applications that could threaten our national security.

IV. LEGISLATION

The Committee on Energy and Commerce intends to discuss the following legislation.

1. H.R. 7521, Protecting Americans from Foreign Adversary Controlled Applications Act (Rep. Mike Gallagher and Rep. Raja Krishnamoorthi)

H.R. 7521, is led by Representative Mike Gallagher (R-WI) and Representative Raja Krishnamoorthi (D-IL). This bipartisan bill addresses the immediate national security risks posed by TikTok and establishes a framework for the Executive Branch to protect Americans from future foreign adversary controlled applications. If an application is determined to be operated by a company controlled by a foreign adversary – like ByteDance, Ltd., which is controlled by the People’s Republic of China – the application must be divested from foreign adversary control within 180 days. If the application is not divested, entities in the United States would be prohibited from distributing the application through an application marketplace or store and providing web hosting services.

2. H.R. 7520, Protecting Americans’ Data from Foreign Adversaries Act of 2024

² Beijing ByteDance Technology and its Cayman Island holding company, ByteDance Ltd., will interchangeably be referred to as “ByteDance.”

³ Joe Tidy and Sophia Smith Galer, *TikTok: The story of a social media giant*, BBC News (5 August 2020). <https://www.bbc.com/news/technology-53640724>

⁴ *TikTok Statistics For 2024: Users, Demographics, Trend*, What’s The Big Data (Nov. 29, 2023), <https://whatsthebigdata.com/tiktok-statistics/>; Rohit Shewale, *46 TikTok Statistics for 2024 (Users, Creators & Revenue)*, DemandSage (Jan. 9 2024), <https://www.demandsage.com/tiktok-user-statistics/#:~:text=TikTok%20has%20over%201.677%20billion,active%20users%20as%20of%202023.>

⁵ Jamie Ding, *Why TikTok is dangerously good at making you spend money*, L.A. Times (Dec. 3, 2023), <https://www.latimes.com/business/story/2023-12-03/why-tiktok-is-dangerously-good-at-making-you-spend-money>.

⁶ Judy Woodruff, *CIA Director Bill Burns on War in Ukraine, Intelligence Challenges Posed by China*, PBS (Dec. 16, 2022, 6:50 P.M.), <https://www.pbs.org/newshour/show/cia-director-bill-burns-on-war-in-ukraine-intelligence-challenges-posed-by-china>.

H.R. 7520, is led by Representative Frank Pallone, Jr. (D-NJ) and Representative Cathy McMorris Rodgers (R-WA). This bipartisan bill protects American sensitive personal data, including military service member data, by prohibiting data brokers from selling, transferring, or giving access to such data to certain foreign adversaries or entities controlled by those foreign adversaries. It gives authority to the Federal Trade Commission to enforce against potential violations.

V. STAFF CONTACTS

If you have any questions regarding this hearing, please contact Kate O'Connor or Tim Kurth of the Committee Majority Staff at (202) 225-3641 or Jennifer Epperson or Lisa Hone of the Committee Minority Staff at (202) 225-2927.