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Senate Bill 2 – Banning Tik Tok

Why Countries Are Trying to Ban TikTok

Governments have expressed concerns that TikTok, which is owned by the Chinese company ByteDance, may endanger sensitive user data.
https://www.nytimes.com/article/tiktok-ban.html

By: Sapna Maheshwari and Amanda Holpuch May 23, 2023

In recent months, lawmakers in the United States, Europe and Canada have escalated efforts to restrict access to TikTok, the massively popular short-form video app that is owned by the Chinese company ByteDance, citing security threats.

The White House told federal agencies on Feb. 27 that they had 30 days to delete the app from government devices.

On March 1, a House committee backed an even more extreme step, voting to advance legislation that would allow President Biden to ban TikTok from all devices nationwide. On March 23, TikTok's chief executive, Shou Chew, was grilled about the app's relationship to its parent company and China's potential influence over the platform in roughly five hours of testimony before a House committee.

Here's why the pressure has been ratcheted up on TikTok.

Why are governments banning TikTok?

It all comes down to China.

Lawmakers and regulators in the West have increasingly expressed concern that TikTok and its parent company, ByteDance, may put sensitive user data, like location information, into the hands of the Chinese government. They have pointed to laws that allow the Chinese government to secretly demand data from Chinese companies and citizens for intelligence-gathering operations. They are also worried that China could use TikTok's content recommendations for misinformation.

TikTok has long denied such allegations and has tried to distance itself from ByteDance.

Have any countries banned TikTok?

India banned the platform in mid-2020, costing ByteDance one of its biggest markets, as the government cracked down on 59 Chinese-owned apps, claiming that they were secretly transmitting users' data to servers outside India.

Other countries and government bodies — including Britain and its Parliament, Australia, Canada, the executive arm of the European Union, France and New Zealand's Parliament — have banned the app from official devices.

Most of the existing TikTok bans have been implemented by governments and universities that have the power to keep an app off their devices or networks.Credit...Scott McIntyre for The New York Times

What's happening with bans in the United States?

Since November, more than two dozen states have banned TikTok on government-issued devices and many colleges — like the University of Texas at Austin, Auburn University, and Boise State University — have blocked it from campus Wi-Fi networks. But students often just switch to cellular data to use the app.

In May, Gov. Greg Gianforte of Montana signed a bill to ban TikTok from operating inside the state, the first prohibition of its kind in the nation. The ban will take effect on Jan. 1.Days later, TikTok filed suit, saying the legislation violated the First Amendment.

The app has already been banned for three years on U.S. government devices used by the military. But the bans typically don't extend to personal devices.

Is Congress trying to ban TikTok?

Some members would like to. In March, the House Foreign Affairs Committee voted to approve a bill that could grant a president the authority to ban the platform. (Courts previously stopped a Trump administration effort to do this.)

In January, a Republican senator, Josh Hawley of Missouri, introduced a bill to ban TikTok for all Americans after pushing for a measure, which passed in December as part of a spending package, that banned TikTok on devices issued by the federal government. A separate bipartisan bill, introduced in December, also sought to ban TikTok and target any similar social media companies from countries like Russia and Iran.

What is the Biden administration doing?

TikTok said recently that the Biden administration wants its Chinese ownership to sell the app or face a possible ban. The administration has been largely quiet, though the White House recently pointed to an ongoing review, in response to questions about TikTok. TikTok has been in yearslong confidential talks with the administration's review panel, the Committee on Foreign Investment in the United States, or CFIUS, to address questions about TikTok and ByteDance's relationship with the Chinese government and the handling of user data.

TikTok said that in August it submitted a 90-page proposal detailing how it planned to operate in the United States while addressing national security concerns. On March 23, a spokeswoman for China's commerce ministry said China would "firmly oppose" the sale of the app.

The Justice Department has also been investigating TikTok's surveillance of American journalists, according to three people familiar with the matter. ByteDance said in December that its employees had inappropriately obtained the data of two U.S. TikTok users who were reporters and a few of their associates.

Can the government ban an app?

Most of the existing TikTok bans have been implemented by governments and universities that have the power to keep an app off their devices or networks.

A broader, government-imposed ban that stops Americans from using an app that allows them to share their views and art could face legal challenges on First Amendment grounds, said Caitlin Chin, a fellow at the Center for Strategic and International Studies. After all, large numbers of Americans, including elected officials and major news organizations like The New York Times and The Washington Post now produce videos on TikTok.

"In democratic governments, the government can't just ban free speech or expression without very strong and tailored grounds to do so and it's just not clear that we have that yet," said Ms. Chin.

What if I already have TikTok on my phone when a ban is issued?

The exact mechanism for banning an app on privately owned phones is unclear.

Ms. Chin said that the United States could block TikTok from selling advertisements or making updates to its systems, essentially making it nonfunctional.

Apple and other companies that operate app stores do block downloads of apps that no longer work. They also ban apps that carry inappropriate or illegal content, said Justin Cappos, a professor at the New York University Tandon School of Engineering.

They also have the ability to remove apps installed on a user's phone. "That usually doesn't happen," he said.

Determined users might also be able to fight a ban by refusing to update their phones, "which is a bad idea," Professor Cappos said.

Since November, more than two dozen states have banned TikTok on government-issued devices and many colleges.Credit...Shuran Huang for The New York Times

What has TikTok's response been?

TikTok has referred to the bans as "political theater" and criticized lawmakers for attempting to censor Americans.

"The swiftest and most thorough way to address any national security concerns about TikTok is for CFIUS to adopt the proposed agreement that we worked with them on for nearly two years," Brooke Oberwetter, a spokeswoman for TikTok, said in a statement.

Separately, TikTok has been trying to win allies, recently making an uncharacteristic push in Washington to meet with influential think tanks, public interest groups and lawmakers to promote the plan it submitted to the government.

How are TikTok's privacy and security issues different from Instagram's, Facebook's or Twitter's?

Chinese ownership seems to be the main issue.

Critics of the efforts to ban the platform have pointed out that all social media networks engage in rampant collection of their users' data.

Fight for the Future, a nonprofit digital rights group, recently waged a #DontBanTikTok campaign with the goal of redirecting lawmakers' attention on TikTok to creating data and privacy laws that would apply to all Big Tech companies.

"The general consensus from the privacy community is that TikTok collects a lot of data, but it's not out of step with the amount of data collected by other apps," said Robyn Caplan, a senior researcher at Data & Society Research Institute.

What can I do right now to protect my data if I use TikTok?

To protect your privacy on TikTok, you can employ the same practices used to protect yourself on other social media platforms. That includes not giving apps permission to access your location or contacts.

You can also watch TikTok videos without opening an account.

What are other approaches besides a ban?

The administration could approve TikTok's plan for operating in the United States. There is also a chance that lawmakers would force ByteDance to sell TikTok to an American company — which almost happened in 2020.

How TikTok Beat the Ban (for Now) This spring, Democrats and Republicans united to call for a crackdown on the app. It was never going to be that easy.
https://nymag.com/intelligencer/article/tiktok-ban-us-congress.html

By: Andrew Rice May 31, 2023

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On February 7, Vitus Spehar, the host of a popular TikTok newscast, was invited to the White House for a State of the Union watch party. After Joe Biden concluded his address to Congress, Spehar stuck in their earbuds, cinched their blue tie, and started to livestream to TikTok from their iPhone. "Oh my God. Hi, friends, we're here," Spehar said. "This is the real East Room of the real White House." Soon, Jill Biden dropped by to take a selfie with Spehar and the other social-media personalities there for the party. With a mischievous eyebrow flex, Spehar slipped into a hallway to check out some presidential portraits at the foot of the stairway up to Biden's private quarters. "If I never get invited back," Spehar said, "I was here three times."

Spehar, 40, is a politically idiosyncratic nonbinary ex-caterer with a pompadour hairstyle and statement eyeglasses. Through some combination of plainspoken charm and algorithmic magic, their bright, chatty takes on current events — usually delivered from a spot under a desk in their home office in Rochester — took off on TikTok. They now have nearly 3 million followers and an audience in the White House. Before the 2022 midterms, Spehar shot a get-out-the-vote spot with Barack Obama. On another occasion, they visited the Oval Office. They now refer to President Biden as "Joe" in casual conversation, and it's easy to see why the president might want to be on friendly terms. For reelection, Biden, 80, will be depending on enthusiastic support from young voters, millions of whom avidly consume — and are influenced by — TikTok.

When Biden returned to the White House, Spehar and the rest of the group were waiting to greet him on his doorstep. He stepped out of his limousine and offered them a deep, exhausted bow. Biden's political solicitude, though, was at odds with his national-security agenda. Even as he beckoned TikTok with one hand, he was considering whether to snatch it away with the other.

In his speech that night, Biden had warned that China, an increasingly aggressive geopolitical rival, "intends to be dominating" the technologies of the future. And though he didn't explicitly mention it, his administration was focusing intense scrutiny on TikTok, an app developed by ByteDance, a private company of Chinese origin. TikTok may well be China's most visibly successful software export. But American law enforcement and intelligence agencies were concerned it posed more than a competitive threat. For years, they had been warning that the app might be put to use for spying, spreading disinformation, or sowing discord. Chinese leaders have been open about their aim to strengthen what they call their nation's "international discourse power," rebalancing what they see as America's advantage in defining cultural and political values. TikTok is capable of shifting the discourse with the

flick of a thumb. As president, Donald Trump had tried to ban TikTok outright, only to be halted by a federal court.

For Vitus Spehar, who goes by “V,” it was easy to write off the idea of banning TikTok as xenophobic, conservative fearmongering. After Trump’s defeat, the issue had been picked up by his right-wing followers in states like Alabama and Texas, where governors have banned TikTok from government devices and public universities have kicked it off their Wi-Fi networks. Last year, at the instigation of the Missouri Republican senator Josh Hawley, the federal government enacted its own ban for its devices. But these largely symbolic attacks did little to slow TikTok’s growth as a business and cultural force. TikTok is now used by 150 million Americans, if you accept the company’s figures, and Spehar figured it was too big to ban. “It would be anti-democratic; it would be against the First Amendment,” Spehar told me on the phone in February, shortly after the State of the Union. “We are not a country that does that kind of stuff.” But then Biden and the Democrats started to surprise them by sending hawkish signals too.

For the better part of two years, the federal government had been engaged in a secretive negotiating process with TikTok’s corporate management. The public didn’t yet know it in February, but those talks were breaking down, leaving the Biden administration in the same place where Trump left off: trying to figure out if it could drive TikTok out of existence in the United States. In Congress, bills to restrict or outlaw TikTok were flying, garnering bipartisan support, with the two parties separated only by the degree of their suspicion. There was a showdown looming in March, when the platform’s Singapore-based chief executive was scheduled to stand alone before a Republican-controlled House committee for a hearing. The spectacle was sure to be punishing; one think-tank expert likened the dynamic to a “human sacrifice.”

You could trace the route to execution back to missteps by TikTok’s ownership, or to China’s confrontational foreign policy under President Xi Jinping, or to unresolved tensions in the relationship between the world’s two strongest nations. But if you were only paying attention on TikTok, it might look, in retrospect, like it had all started with the balloon. The weekend before the State of the Union, a Chinese surveillance craft blew over the U.S. After President Biden ordered the military to shoot the balloon down, he was asked if he might do the same to TikTok. “I’m not sure,” Biden replied. “I know I don’t have it on my phone.” Before long, the new Republican chairman of the House Foreign Affairs Committee rammed through his own bill and called TikTok a “spy balloon in your phone.” The bipartisan agitation against China appeared, to Spehar, “outrageously cordial.” They were starting to rethink their comfortable assumptions.

“Now,” Spehar told me, “I’m in a position where I’m like, Fuck, they might ban this app.”

By March, the momentum for draconian restrictions was starting to look unstoppable and Spehar was moved to act. They started to defend TikTok in videos that received millions of views. When TikTok’s embattled chief executive testified, they sat right behind him, often popping into the camera frame over his right shoulder. Spehar would go from visiting the East Room to a place of cynical distance in the span of a few news cycles. “This whole idea of banning TikTok based on threats you can’t prove and information you won’t share, that doesn’t fly,” they told me. “That makes me feel like you think I’m not smart enough.” To them, the betrayal felt personal. They had just been over to the president’s house.

“You put all this effort into building trust,” Spehar said. “Tell me, Joe, why are you doing this?”

Biden has shown no eagerness to answer their question. The White House declined to offer any substantive comment about TikTok, though a spokesman denied there was any contradiction between embracing it as a communications medium while also attempting to suppress it. Since 2020, when a judge halted Trump's sloppy effort to ban TikTok on procedural grounds, the issue has been in the hands of the Committee on Foreign Investment in the United States, a body made up of representatives of Cabinet departments including Treasury, Defense, and Justice as well as intelligence agencies. The committee — known to policy obscurantists as CFIUS — oversees transactions that are deemed to impact national security, making recommendations to the president, who possesses nearly unchecked power to disallow investments or unwind mergers. Most CFIUS reviews are quick and quiet, and they seldom rise to the level of a president's attention. The case of TikTok, though, has placed Biden square in the middle of an irreconcilable dilemma.

To one side, the president has his national-security advisers, who are expressing concern about what China could do with a technology in the pockets of 150 million Americans. To the other, the president has his political advisers, who are looking ahead to yet another election where it looks like everything will be on the line. The White House and Democratic campaign organizations — including Biden's own — are eager to use TikTok as a messaging vehicle, and some political operatives are reluctant to sacrifice such a potent tool. "From a purely political perspective, while it's nice to sound tough on China, there's a lot of ways to sound tough on China," says a Democratic digital-media consultant with ties to the Biden campaign. "This is an app that every young person in America uses. We have to use it, or we will lose there."

One spring afternoon, I met a social-media talent manager named Daniel Daks at a café on the Upper East Side. He painted TikTok's potential impact on the democratic process in grandiose terms, telling me, "A world where campaigns are forced to directly partner with these individuals is a world where the political Establishment needs to meet the needs of people." Daks is a preppy 32-year-old entrepreneur who started and sold one tech company before getting into the social-media-agency business. His firm, Palette Media, now represents more than 100 content creators and influencers, connecting them with advertisers like Wal-Mart for product-endorsement deals. Palette also has a marketing-consulting wing, which has carved out a niche in Democratic politics, with Daks acting as an emissary between TikTok and Washington. He represents Spehar, handling their brand relationships and public speaking, and served as a go-between when White House officials were putting together their State of the Union event with social-media influencers.

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That event was part of a broader campaign to cultivate TikTokers, whom the White House has courted with Zoom briefings and access to the president at ceremonial and private events. Axios recently reported that Rob Flaherty, the White House director of digital strategy, is attempting to recruit what the publication described as an "army of influencers" as part of its effort to deliver Biden's messages to young voters. Daks said his own professional involvement with Democratic politics went back to 2020, when he worked with Biden's organization, which was innovative in creating a team solely devoted to engaging social-media influencers. As both the platform and his client list have grown, Daks says he has stayed in regular contact with White House staffers who handle the administration's social-media relationships, which are poised to play an even larger role in the reelection campaign. In October, the Democratic National Committee paid $200,000 to Palette Media for its services during the midterms.

Daks helped to arrange for some of his clients to attend a series of Washington events, including meetings with top Democratic congressional-campaign staffers and an audience with Obama, at which Spehar filmed their TikTok. Daks says that none of his clients, including Spehar, were compensated by the DNC for the videos they made. The $200,000, he says, was for strategic consulting services. But social-media endorsement deals — sometimes for pay — are an increasingly important element of political advocacy. TikTok does not accept political advertisements. (They're off-putting to viewers, its corporate leadership says.) "We don't use TikTok at the White House," a Biden spokesperson said, in response to questions posed for this article. But it hardly matters when TikTokers are already inside the building. Instead of posting to the platform via their own accounts, candidates tend to find content creators to spread their message, either via direct relationships or by hiring someone like Daks. "This is kind of the next wave of paid advertising," says a second Democratic digital-media consultant. "It picked up steam last cycle, where a campaign, usually through an intermediary agency, will pay a certain amount of money to subcontract influential people on a social-media platform." Spehar, for instance, has worked with Vocal Media, an agency founded by a former Hillary Clinton 2016 staffer, on campaigns to promote adult education and to raise awareness about the federal child-tax credit.

To TikTok viewers, it may not always be clear where heartfelt advocacy ends and shilling begins. Although sponsored content is supposed to be labeled as advertising on TikTok, the rules are not well enforced. But Daks says TikTok messaging is effective because it is authentic, involving real people speaking directly to audiences that trust them, and that none of his clients would jeopardize that bond by voicing political opinions they don't genuinely believe.

Daks said if TikTok were banned, his clients could always move over to Instagram or YouTube, which have introduced knockoff products, but that would mean rebuilding their audience in a new place, with different tech, which might not reward their videos the same way. He said that his clients were, by nature, an anxious and superstitious lot. "Imagine if your entire livelihood was at the mercy of an algorithm," he said. And now there was this added uncertainty blowing in on the geopolitical winds. The anxiety was starting to filter into the content creators were posting. "Explain to the people what you're going to fucking do," a TikTok creator named Alex Pearlman screamed in a viral rant, addressed to Biden, "or you're going to end up with a lot more people looking angry as fuck, like me."

At first, the backlash didn't receive much notice in official circles in Washington. Only a handful of politicians use TikTok regularly. But many of their staffers do, and the political operatives most attuned to TikTok's usefulness as an instrument of persuasion were in no rush to disarm unilaterally. "The next generation of politically active people," says Teddy Goff, the digital director for Obama's 2012 campaign and the co-founder of the firm Precision Strategies, "is going to need to understand that what it means to be politically engaged is to be involved in an information war that is not happening exclusively on TikTok but mostly on TikTok."

Commerce Secretary Gina Raimondo — who has endorsed a bipartisan bill designed to empower her department to regulate TikTok — was unusually frank in expressing reservations about the downside. "The politician in me thinks you're gonna literally lose every voter under 35, forever," she told Bloomberg News in March. "However much I hate TikTok — and I do, because I see the addiction in the bad shit that it serves kids — you know, this is America."