



# ENERGY & COMMERCE COMMITTEE DEMOCRATS

RANKING MEMBER FRANK PALLONE, JR.

## MEMORANDUM

March 21, 2023

**To: Committee on Energy and Commerce Democratic Members and Staff**

**Fr: Committee on Energy and Commerce Democratic Staff**

**Re: Hearing on “TikTok: How Congress Can Safeguard American Data Privacy and Protect Children from Online Harms”**

**On Thursday, March 23, 2023, at 10:00 a.m. (EDT), in the John D. Dingell Room, 2123 of the Rayburn House Office Building,** the full Committee will hold a hearing entitled, “TikTok: How Congress Can Safeguard American Data Privacy and Protect Children from Online Harms.” The hearing will examine TikTok’s impact on data privacy, the dissemination of harmful content, and child welfare. TikTok CEO Shou Zi Chew will appear as a witness.

### I. BACKGROUND

TikTok is a social media platform that allows users to create, edit, disseminate, and view short videos. TikTok is the fastest-growing social media platform operating in the United States.<sup>1</sup> TikTok had over 1 billion worldwide users in 2022, a dramatic increase from its 55 million users in 2018.<sup>2</sup> Approximately 150 million people in the United States use TikTok every month.<sup>3</sup> The platform is particularly popular among children and teenagers, and more than 67 percent of American teenagers used TikTok in 2022.<sup>4</sup>

TikTok reportedly collects more data than any other social media app.<sup>5</sup> Its algorithm uses user data such as age, IP addresses, keystroke patterns, viewing history, and third-party inputs (such as browsing history) to recommend content.<sup>6</sup> These inputs inform an algorithm with an uncanny ability to predict what a user needs to see to keep scrolling—even when such

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<sup>1</sup> *The Rapid Rise of TikTok*, Statista (Oct. 7, 2022).

<sup>2</sup> *TikTok Reveals Detailed User Numbers for the First Time*, CNBC (Aug. 24, 2020).

<sup>3</sup> *TikTok Now Has 150 Million Active Users in the U.S., CEO to Tell Congress*, CNBC (Mar. 19, 2023).

<sup>4</sup> Pew Research Center, *Teens, Social Media and Technology 2022* (Aug. 10, 2022).

<sup>5</sup> *TikTok Monitors Your Data More Than Any Other Social Media App—it's Unclear Where it Goes, Study Says*, CNBC (Feb. 8, 2022).

<sup>6</sup> *TikTok's In-App Browser Includes Code That Can Monitor Your Keystrokes, Researcher Says*, Forbes (Aug. 18, 2022); *TikTok Monitors Your Data More Than Any Other Social Media App—it's Unclear Where it Goes, Study Says*, CNBC (Feb. 8, 2022).

information is harmful, inaccurate, or feeds harmful behavior and extremist content.<sup>7</sup> TikTok's mass collection of user data, coupled with its China-based ownership, has created national security concerns.

## II. TIKTOK AND CHINA

TikTok's relationship with ByteDance, its China-based parent company, has generated concerns about the app's effects on national security. TikTok Inc. is based in California and is a wholly owned, indirect subsidiary of ByteDance Ltd. While ByteDance Ltd. is registered as a Cayman Islands company, it is headquartered in Beijing. ByteDance also owns several other large technology companies in China, most notably Douyin, which is the Chinese equivalent of TikTok, and Toutiao, China's most popular news app.<sup>8</sup>

The Chinese Communist Party (CCP) has legal authority to access online data from China-based companies—including ByteDance—through several cyber security, data privacy and trade laws, and social coercion methods.<sup>9</sup> National-security experts have warned that the CCP can leverage ByteDance to maliciously access American user data, promote pro-China messages, and undermine American interests.<sup>10</sup>

Recent company behavior has reinforced the validity of these national security concerns. According to leaked audio from internal company meetings, ByteDance employees in China have historically had full access to and control over U.S. user data, despite TikTok's public statements to the contrary.<sup>11</sup> Furthermore, in 2022, Forbes reported that TikTok employees in the United States and China used data from U.S.-based journalists to locate employees suspected of leaking confidential company information; the FBI and Department of Justice have reportedly launched investigations into these events.<sup>12</sup>

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<sup>7</sup> *How TikTok Reads Your Mind*, New York Times (Dec. 5, 2021); *The TikTok Algorithm Knew My Sexuality Better than I Did*, Repeller (July 8, 2020); *TikTok Can't Save Us from Algorithmic Content Hell*, Vice (Jan. 31, 2019); *Extremist Content is Flourishing on TikTok: Report*, Politico (Aug. 24, 2021).

<sup>8</sup> Harvard Business Review, *How ByteDance Became the World's Most Valuable Startup* (Feb. 24, 2022) (<https://hbr.org/2022/02/how-bytedance-became-the-worlds-most-valuable-startup>).

<sup>9</sup> China Law Translate, *PRC National Intelligence Law (as amended in 2018)* (June 27, 2017) (<https://www.chinalawtranslate.com/en/national-intelligence-law-of-the-p-r-c-2017/>); Congressional Research Service, *China Issues New Export Control Law and Related Policies* (Oct. 26, 2020) (<https://www.crs.gov/Reports/IN11524>); Congressional Research Service, *Digital Trade and U.S. Trade Policy* (Dec. 9, 2021); *Exclusive: China Operating over 100 Police Stations Across the World with the Help of Some Host Nations, Report Claims*, CNN (Dec. 4, 2022).

<sup>10</sup> *The FBI Alleges TikTok Poses National Security Concerns*, NPR (Nov. 17, 2022).

<sup>11</sup> *Leaked Audio from 80 Internal TikTok Meetings Shows That U.S. User Data Has Been Repeatedly Accessed from China*, BuzzFeed News (June 17, 2022).

<sup>12</sup> *EXCLUSIVE: TikTok Spied on Forbes Journalists*, Forbes (Dec. 22, 2022); *The DOJ and FBI Are Investigating TikTok over Allegations That Employees Spied on Journalists*, NBC (Mar. 17, 2023).

Reporting suggests that ByteDance leadership has used its platforms to disseminate CCP propaganda.<sup>13</sup> For example, last year, former employees alleged that ByteDance had pressured them to promote news and content with pro-China messages on TopBuzz, a now-defunct U.S. news aggregation app.<sup>14</sup> Similarly, ByteDance has reportedly collaborated with China's public security bureaus to disseminate propaganda about Uyghurs over Douyin, TikTok's Chinese equivalent.<sup>15</sup> Before the 2022 midterm elections, TikTok accounts linked to China's state broadcaster posted content directed at Americans disparaging political candidates and U.S. government policies.<sup>16</sup> Unlike Twitter, TikTok did not label those accounts as affiliated with Chinese broadcasters.<sup>17</sup> Experts have cautioned that TikTok can be a valuable tool for the CCP to shape public opinion to its favor by, for example, promoting content laying territorial claims to Taiwan, or promulgating false claims about the origins of COVID-19.<sup>18</sup>

### III. TIKTOK AND CHILDREN

TikTok's popularity among teenagers presents grave concerns around children's health and safety online. Sixteen percent of American teenagers report that they use TikTok constantly.<sup>19</sup> Studies have found that such high levels of social media use are associated with increased levels of depression among middle and high school students.<sup>20</sup> Research has also found that TikTok's algorithms push videos that create and exacerbate feelings of emotional distress, including videos promoting suicide, self-harm, and eating disorders.<sup>21</sup> Teenagers and young people have been reported to search for information about mental health issues on TikTok without the guidance of medical professionals, which has led to misdiagnoses and mistreatments.<sup>22</sup>

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<sup>13</sup> Australian Strategic Policy Institute, International Cyber Policy Center, Mapping China's Tech Giants, *ByteDance* (<https://chinatechmap.aspi.org.au/#/company/bytedance>) (accessed Mar. 20, 2023).

<sup>14</sup> *TikTok Owner ByteDance Used a News App on Millions of Phones to Push Pro-China Messages, Ex-Employees Say*, BuzzFeed News (July 26, 2022).

<sup>15</sup> *Report Claims TikTok Parent Company ByteDance is Working with China's Communist Party to Spread Propaganda on Xinjiang*, Business Insider (Nov. 29, 2019).

<sup>16</sup> *On TikTok, Chinese State Media Pushes Divisive Videos About U.S. Politics*, Forbes (Dec. 1, 2022).

<sup>17</sup> *Id.*

<sup>18</sup> *TikTok Could be a Valuable Tool for China if it Invades Taiwan, FBI Director Says*, CNN (Mar. 8, 2023); John Ross Wendler, *Misleading a Pandemic: The Viral Effects of Chinese Propaganda and the Coronavirus*, Joint Force Quarterly (Dec. 29, 2021).

<sup>19</sup> See note 4.

<sup>20</sup> Mingli Liu et al., *Time Spent on Social Media and Risk of Depression in Adolescents: A Dose-Response Meta-Analysis*, National Library of Medicine (May 19, 2022).

<sup>21</sup> *TikTok Pushes Potentially Harmful Content to Users as Often as Every 39 Seconds, Study Says*, CBS (Dec. 14, 2022); *Young TikTok Users Quickly Encounter Problematic Posts, Researchers Say*, New York Times (Dec. 14, 2022).

<sup>22</sup> *Teens Turn to TikTok in Search of a Mental Health Diagnosis*, New York Times (Oct. 29, 2022).

TikTok and other social media platforms have been criticized for failing to adequately protect teens from sexual exploitation.<sup>23</sup> In addition to failures to moderate harmful content, adult sex offenders have been found to evade TikTok’s content moderation by way of its “post in private” feature.<sup>24</sup> To address these and other issues for teens, TikTok and other platforms have added parental control features. For example, earlier this month, TikTok announced that it will soon allow caregivers to stop access to certain categories of videos and view teens’ direct messages.<sup>25</sup> However, in the absence of accurate age verification for younger users and sufficient content moderation, these features are easily bypassed.<sup>26</sup>

#### IV. TIKTOK EXEMPLIFIES ISSUES WITH SOCIAL MEDIA

##### A. Data Privacy

TikTok exemplifies industry-wide privacy issues arising from the vast collection, use, sharing, and monetization of personal data by social media platforms and other technology companies. The United States does not have a comprehensive national consumer privacy framework in place, leaving businesses generally free to collect, use, share, and sell data without meaningful limits. In many cases, this includes an individual’s most sensitive personal data, such as health information, precise geolocation history, and government-issued identifiers like Social Security numbers. Furthermore, once that data is in the hands of data brokers or other third parties, it may be further sold, combined, and used, often without the individual’s knowledge or consent.<sup>27</sup> Online privacy harms are well-documented, including unwanted observations, algorithmic discrimination, harms to children and teens from targeted advertisements and manipulative design features, including dark patterns.<sup>28</sup>

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<sup>23</sup> *Child Sexual Abuse Images and Online Exploitation Surge During Pandemic*, NBC (Apr. 23, 2020); *These TikTok Accounts are Hiding Child Sexual Abuse Material in Plain Sight*, Forbes (Nov. 14, 2022).

<sup>24</sup> *These TikTok Accounts are Hiding Child Sexual Abuse Material in Plain Sight*, Forbes (Nov. 14, 2022).

<sup>25</sup> Tech Crunch, *TikTok Rolls out New Screen Time Controls, Adds New Default Settings for Teens and Expands Family Pairing* (Mar. 1, 2023) (<https://techcrunch.com/2023/03/01/tiktok-rolls-out-new-screen-time-controls-adds-new-default-settings-for-teens-and-expands-family-pairing/>); Tech Crunch, *TikTok Updates its Policies with Focus on Minor and LGBTQ Safety, Age Appropriate Content and More* (Feb. 8, 2022) (<https://techcrunch.com/2022/02/08/tiktok-updates-its-policies-with-focus-on-minor-safety-age-appropriate-content-and-more/>); *TikTok Gives Parents More Control over What Their Teens Can View and Post*, CNN (Nov. 17, 2020).

<sup>26</sup> *Leg Booty? Panoramic? Seggs? How TikTok is Changing Language*, New York Times (Nov. 19, 2022).

<sup>27</sup> *The State of Consumer Data Privacy Laws in the US (and Why It Matters)*, New York Times (Sept. 6, 2021).

<sup>28</sup> Cyber News, *6 Examples of Online Privacy Violation* (Apr. 15, 2020) ([https://cybernews.com/privacy/6-examples-of-online-privacy-violation/#:~:text=6%20examples%20of%20online%20privacy%20violation%201%201.,flaw%20sacrificed%20the%20privacy%20of%20top%20government%20officials](https://cybernews.com/privacy/6-examples-of-online-privacy-violation/#:~:text=6%20examples%20of%20online%20privacy%20violation%201%201.,flaw%20sacrificed%20the%20privacy%20of%20top%20government%20officials;)); Danielle Keats Citron & Daniel J. Solove, *Privacy Harms*, Boston University Law Review (Feb. 18, 2021).

To date, the Federal Trade Commission (FTC) has sought to protect consumer's general right to privacy under its unfair or deceptive acts or practices authority.<sup>29</sup> The FTC's section 5 authority is limited to cases in which: (i) the agency can prove substantial injury that consumers cannot reasonably avoid that is not outweighed by benefits to consumers or competition; or (ii) companies fail to live up to their own promises regarding data practices, regardless of whether such practices themselves are harmful.<sup>30</sup> There is no federal requirement for entities to make such promises.<sup>31</sup> The FTC is also limited in the relief it may obtain. The agency lacks civil penalty authority outside of very limited circumstances, such as violations of regulations. The Supreme Court unanimously held in April 2021 that the FTC may not obtain monetary relief for consumers who have been harmed under section 13(b) of the FTC Act, which is the agency's primary tool for addressing privacy harms.<sup>32</sup>

A growing number of states have tried to fill the federal consumer privacy and data security void by passing laws that provide substantive consumer privacy and data security protections, including California, Virginia, Colorado, Utah, and Connecticut. These state laws materially vary in their scope, protections, obligations, and enforcement mechanisms.<sup>33</sup>

## **B. Content Moderation**

TikTok also typifies how social media platforms often fail to prevent damaging content from reaching audiences, even when that content violates their community guidelines. TikTok's community guidelines call for the removal of videos that depict suicide, self-harm, or disordered eating; nudity and sexual activities; bullying and harassment; hateful behavior; violent extremism and graphic content; and illegal activities.<sup>34</sup> Such content can have tremendously detrimental real-world effects; a 2020 study, for example, found that Instagram made one-third of teenage girls feel worse about their bodies because of social comparisons that negatively impact users' self-esteem and well-being.<sup>35</sup>

However, like many social media platforms, TikTok often falls short of enforcing those guidelines, notwithstanding its significant investments in moderation software and personnel. Though TikTok reports that it removed, on average, more than 100 million videos per quarter in

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<sup>29</sup> 15 U.S.C. § 45.

<sup>30</sup> Federal Trade Commission, *FTC Report to Congress on Privacy and Security* (Sept. 13, 2021).

<sup>31</sup> *Id.*

<sup>32</sup> *AMG Capital Mgmt., LLC, et al., Petitioners v. FTC*, 141 U.S. 1341 (2021).

<sup>33</sup> Mayer Brown, *Connecticut Passes Comprehensive Privacy Law: Comparing to Other States* (May 11, 2022) (<https://www.mayerbrown.com/en/perspectives-events/publications/2022/05/connecticut-passes-comprehensive-privacy-law-comparing-to-other-state-privacy-laws>).

<sup>34</sup> TikTok, *Community Guidelines* (<https://www.tiktok.com/community-guidelines?lang=en>) (accessed Mar. 20, 2023).

<sup>35</sup> *Instagram Makes Teen Girls Hate Themselves. Is That a Bug or a Feature?*, Time (Sept. 16, 2021).

the first three quarters of 2022, this moderation often happens after users have been exposed to violative content, and videos often fall through the cracks of machine review systems.<sup>36</sup>

Ineffective content moderation has led to a proliferation of misinformation and disinformation, illegal activities, and hate speech. For instance, in the wake of the Supreme Court's *Dobbs v. Jackson Women's Health Organization* decision, users were able to evade TikTok's content moderation guidelines by deliberately misspelling words or using symbols instead of letters, leading to a scourge of inaccurate information about abortion on the platform.<sup>37</sup> Content moderation policies often fail to effectively address hate speech; within one year of Facebook's classification of Holocaust denial content as hate speech, the Anti-Defamation League found that there were significant cracks in enforcement, with content still appearing in private groups and on personal profiles.<sup>38</sup> At the same time, platforms have been criticized for "shadowbanning" certain content about sensitive information, with activists alleging that TikTok had intentionally limited the reach of videos including the terms "Black Lives Matter" or "LGBTQ."<sup>39</sup> This has cast doubt on the consistency and effectiveness of platforms' self-imposed community guidelines policies.

Companies are often able to evade legal liability from their failures to remove harmful content under Section 230 of the Communications Decency Act. This provision immunizes social media companies from most lawsuits by users who are injured due to content posted on their platforms. For instance, in 2022, TikTok was able to win dismissal of a lawsuit stemming from the death of a 10-year-old who participated in a the "Blackout Challenge," a viral TikTok trend encouraging users to choke themselves to the point of losing consciousness.<sup>40</sup> This liability shield disincentivizes companies to remove harmful content from their sites.

### C. Manipulative Design Features

Social media platforms embed addictive features into their platforms to drive engagement, often with harmful consequences. Platforms might drive user engagement through design features—such as infinite scroll, refresh delay, likes, and push notifications—or through algorithms that determine what appears on users' screens when they engage with the applications. These features manipulate users by generating psychological responses. For example, push notifications can play on dopamine to cause addictive responses, and "like"

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<sup>36</sup> See, e.g., Senator Richard Blumenthal, *Blumenthal Calls on TikTok to Act After 12-Year-Old East Haven Boy Suffered Serious Burns While Attempting "Whoosh Bottle Experiment"* (Jan. 10, 2022) (press release); Statista, *TikTok: videos removed 2020-2022* (Jan. 11, 2023) (<https://www.statista.com/statistics/1300031/tiktok-videos-removed/#:~:text=During%20the%20second%20quarter%20of,compared%20to%20the%20previous%20quarter>).

<sup>37</sup> *People Searching for Abortion Online Must Wade Through Misinformation*, Washington Post (July 4, 2022).

<sup>38</sup> Institute for Strategic Dialogue, *Hatescape: An In-Depth Analysis of Extremism and Hate Speech on TikTok* (2021); Anti-Defamation League, *One Year After Ban, Holocaust Denial Remains on Facebook* (Dec. 1, 2021) (<https://www.adl.org/resources/blog/one-year-after-ban-holocaust-denial-remains-facebook>).

<sup>39</sup> *TikTok Algorithm Error Sparks Allegations of Racial Bias*, NBC (July 9, 2021); *TikTok Confirms it's been Shadowbanning LGBTQ+ Terms and Hashtags*, Vice (Sept. 15, 2020).

<sup>40</sup> *Judge Dismisses Suit Alleging TikTok 'Blackout Challenge' Caused Girl's Death*, NBC (Oct. 26, 2022).

features might create cravings driven by uncertainty, need for approval, and the fear of missing out.<sup>41</sup> According to an internal document, TikTok’s algorithm is specifically designed to maximize time spent on the app and user retention, analyzing the videos users view and like to display new content most likely to keep users on the app.<sup>42</sup> Platforms also prolong engagement by removing natural stopping points; for example, TikTok and Facebook both have infinite feeds, without natural pauses that would typically require user initiative to continue use.<sup>43</sup>

Efforts to maximize the amount of time users spend on apps have led to an amplification of content known to generate negative emotional responses, including extreme content containing disinformation.

## **V. ADMINISTRATION AND CONGRESSIONAL EFFORTS**

The Biden Administration and Congress have sought to mitigate the national security and data privacy risks associated with TikTok’s operations in the United States. The Trump Administration issued executive orders that sought to ban TikTok from the United States and otherwise prevent American businesses from transacting with TikTok, though those orders were all blocked in court. The Biden Administration has focused on properly applying existing authorities through the Committee on Foreign Investment in the United States (CFIUS) and supporting new authorities in proposed legislation.

### **A. CFIUS Review**

In 2019, the Committee on Foreign Investment in the United States initiated a review of a proposal from TikTok to mitigate the national security threats stemming from its Chinese ownership.<sup>44</sup> CFIUS, an interagency committee chaired by Department of Treasury, has the authority to review pending or existing foreign investments in the United States and to issue orders—such as restrictions on foreign investors, a ban, or forced sale—to remedy any threats.<sup>45</sup> On March 15, 2023, TikTok released a statement saying that the White House found its proposal insufficient, and told the company that the platform could face a possible ban if its Chinese owners did not sell the app.<sup>46</sup> The Biden Administration has not commented on this announcement nor announced a final decision.

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<sup>41</sup> *Social Media Apps Are ‘Deliberately’ Addictive to Users*, BBC (July 4, 2018); *Trapped – the Secret Ways Social Media is Built to be Addictive (and What you Can do to Fight Back)*, BBC Science Focus (Oct. 29, 2018).

<sup>42</sup> *How TikTok Reads Your Mind*, New York Times (Dec. 5, 2021).

<sup>43</sup> See note 41.

<sup>44</sup> *TikTok Said to be Under National Security Review*, New York Times (Nov. 1, 2019).

<sup>45</sup> Department of the Treasury, *The Committee on Foreign Investment in the United States (CFIUS)* (<https://home.treasury.gov/policy-issues/international/the-committee-on-foreign-investment-in-the-united-states-cfius>) (accessed Mar. 13, 2023).

<sup>46</sup> *U.S. Pushes for TikTok Sale to Resolve National Security Concerns*, New York Times (Mar. 15, 2023).

TikTok had attempted to address CFIUS's concerns by beginning to restructure its U.S. subsidiary in an initiative it has termed "Project Texas."<sup>47</sup> TikTok has described this initiative as creating a "firewall" between U.S. user data and China-based employees. Project Texas would move all U.S. user data to cloud servers run by Oracle, a U.S.-based software company. The company has also committed to deleting all U.S. user data stored outside of the United States by the end of 2023.<sup>48</sup> Under this agreement, Oracle would have the final say on data access requests and vet software and algorithm updates.<sup>49</sup>

However, experts have raised concerns about whether Project Texas could adequately mitigate TikTok's national security threat to survive its CFIUS review. For example, Project Texas' prohibition on international data transfers has exceptions for business data and public data, and, as a result, some user data will leave the United States.<sup>50</sup> Furthermore, it is unclear whether any remedial effort could address concerns linked to the CCP's ability to direct the behavior of Chinese companies, including ByteDance. TikTok's statement that CFIUS rejected TikTok's proposal raises questions about the future of Project Texas.

## **B. Biden Administration Action**

On June 9, 2021, the Biden Administration issued an Executive Order titled "Protecting Americans' Sensitive Data from Foreign Adversaries."<sup>51</sup> It set criteria for the Department of Commerce to evaluate the risks of apps associated with foreign adversaries, including TikTok, and directed the Department of Commerce to make recommendations to mitigate harms associated with the collection and sale of personal information.<sup>52</sup> This order replaced a series of executive orders by the Trump Administration seeking to ban TikTok and force a sale from ByteDance, several of which had been previously enjoined.<sup>53</sup>

On December 30, 2022, President Biden signed a measure banning TikTok on government devices as part of the Consolidated Appropriations Act, 2023, and on February 27, 2023, the Administration directed all agencies to remove TikTok from government devices

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<sup>47</sup> Lawfare, *Project Texas: The Details of TikTok's Plan to Remain Operational in the United States* (Jan. 26, 2023) (<https://www.lawfareblog.com/project-texas-details-tiktoks-plan-remain-operational-united-states>).

<sup>48</sup> Tech Crunch, *TikTok Says 'Project Texas' Will Bolster Security for U.S. Users in Wake of China Data Concerns* (July 4, 2022) (<https://techcrunch.com/2022/07/04/tiktok-says-project-texas-will-bolster-security-for-u-s-users-in-wake-of-china-data-access-concerns/>).

<sup>49</sup> *Id.*

<sup>50</sup> See note 11.

<sup>51</sup> Exec. Order No. 14034, 86 Fed. Reg. 31423 (June 11, 2021); White House, *Executive Order on Protecting Americans' Sensitive Data from Foreign Adversaries* (June 9, 2021) (press release).

<sup>52</sup> The White House, *FACT SHEET: Executive Order Protecting Americans' Sensitive Data from Foreign Adversaries* (June 9, 2021) (<https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/09/fact-sheet-executive-order-protecting-americans-sensitive-data-from-foreign-adversaries/>).

<sup>53</sup> *Biden Revokes and Replaces Trump Executive Orders that Banned TikTok*, CNBC (June 9, 2021).



within 30 days.<sup>54</sup> On March 7, 2023, the Administration announced its support of the RESTRICT Act, a Senate measure that would empower the Department of Commerce to mitigate and address technology services operating in the United States in which adversarial governments have an interest.<sup>55</sup>

### **C. Congressional Action**

#### **1. American Data Privacy and Protection Act (ADPPA)**

Last Congress, the Committee overwhelmingly passed the American Data Privacy and Protection Act (ADPPA), introduced by Reps. Pallone (D-NJ) and Rodgers (R-WA), which would create a national standard for data security and privacy protections.<sup>56</sup> The legislation would protect Americans' data by imposing limitations on the amount of information that companies collect, process, and store; granting consumers the right to access, correct, delete, and port their data; applying heightened protections to children and safeguards from discrimination; and empowering the FTC to enforce the Act through new enforcement authorities and funding. ADPPA recognizes that federal law has not kept pace with the dramatic increase of sensitive, personal information collected, processed, and transferred by entities. If enacted, this bill would establish a comprehensive approach to data security, ensuring that consumers have meaningful control over their personal information, giving heightened privacy protections for children, and providing clear and consistent rules of the road on privacy to innovators, entrepreneurs, and small tech companies.

#### **2. Communications Decency Act Section 230 Reforms**

Several bills were also introduced during the 117th Congress to modify Section 230 of the Communications Decency Act and impose greater liability on social media companies that host harmful content. For instance, the "Justice Against Malicious Algorithms Act of 2021," introduced by Reps. Pallone, Doyle (D-PA), Schakowsky (D-IL), and Eshoo (D-CA) proposed to amend Section 230 to remove absolute immunity in certain instances.<sup>57</sup> Specifically, the bill proposed to lift the liability shield when an online platform knowingly or recklessly uses an algorithm to recommend content that materially contributes to physical or severe emotional injury. Additionally, the "Protecting Americans from Dangerous Algorithms Act," introduced by Reps. Malinowski (D-NJ) and Eshoo, proposed to amend Section 230 to preclude an interactive computer service from claiming immunity in instances where it uses an algorithm to amplify or recommend content directly relevant to a case involving interference with civil rights, neglect to prevent interference with civil rights, and in cases involving international terrorism.<sup>58</sup>

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<sup>54</sup> *Exclusive: White House Sets Deadline for Purging TikTok from Federal Devices*, Reuters (Feb. 28, 2023).

<sup>55</sup> White House, *Statement from National Security Advisor Jake Sullivan on the Introduction of the RESTRICT Act* (Mar. 7, 2023) (press release).

<sup>56</sup> H.R. 8152, 117th Cong. (2022).

<sup>57</sup> *Id.*

<sup>58</sup> H.R. 2154, 117th Cong. (2021).

The “Civil Rights Modernization Act of 2021,” introduced by Rep. Clarke (D-NY), proposed to amend section 230(e), which provides exemptions to the Section 230(c) protections, for the targeting of ads where such ads violate civil rights laws. These bills have not yet been introduced in the 118th Congress.

This Congress, Reps. Castor (D-FL) and Levin (D-CA) introduced H.R. 1231, the “SAFE TECH Act.” This legislation would reform Section 230 by, among other things, replacing immunity for third party “information” with immunity for third-party “speech” and removing Section 230 protections for paid advertisements.

## **VI. WITNESS**

The following witness has been invited to testify:

**Shou Zi Chew**  
Chief Executive Officer  
TikTok Inc.