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TikTok and China’s Digital Platforms: Issues for Congress

Congress and U.S. policymakers at the federal and state levels have taken steps to address their national security-related concerns about the People’s Republic of China’s (PRC or China) influence over PRC digital platforms operating in the United States. Most U.S. actions to date have focused on TikTok, owned by ByteDance, a company with ties to the PRC government. Other expressed concerns include PRC platforms’ large user bases, access to large amounts of U.S. data, and company data and content policies. TikTok has an estimated 148.9 million U.S. users as of January 2024. TikTok’s CEO testified to Congress in March 2023 that ByteDance retains in the PRC at least seven years of U.S. TikTok users’ data. Enacted in April 2024, P.L. 118-50 has provisions that address PRC digital platforms and related data issues. Division H requires ByteDance to divest TikTok and allows the President to address other PRC-controlled digital platforms. Division I prohibits the transfer of U.S. personally identifiable sensitive data to foreign adversaries, including the PRC.

PRC digital firms are able to serve the U.S. and PRC markets, while U.S. firms remain restricted in China. This asymmetry raises other issues for Congress, such as market access reciprocity, fair competition, and U.S. regulation of PRC digital firms. China’s digital platforms have expanded in the U.S. market over the past 10 years. Many firms have entered otherwise regulated or restricted parts of the U.S. economy—broadcasting, media, health, and finance—through mobile applications (apps). PRC foreign investment and technology restrictions inhibit the ability of U.S. digital platforms to operate in China.

Digital platforms are internet-connected and software-based digital spaces that facilitate the exchange of goods, services, and information through online interactions.

China’s Digital Platform Development

PRC policies prioritize the role digital platforms play in China’s economic competitiveness, the development of emerging technologies, and PRC global projects in sectors such as communications, smart cities, financial, and logistics services. China’s digital platforms emerged in the late 1990s with the help of PRC government policies that restricted U.S. internet services firms from operating in China while promoting alternative PRC competitors. Alibaba began in 1999 as a competitor to Amazon and formed Alipay in 2003 to compete with PayPal. Baidu started as a Google competitor in mapping and search engines. Sina Weibo began as a challenger to Twitter. Tencent’s WeChat competed with WhatsApp. In 2016, ByteDance refined the algorithm from its news aggregator business (Toutiao) to launch Douyin (a predecessor-turned companion PRC application to TikTok), a service that competed with Facebook and YouTube. The PRC universe of digital firms has expanded as industry more broadly has

adopted digital services, and now includes other firms, such as BGI (biotech) and DJI (drones).

As PRC digital firms became viable in China, some moved into global markets. The PRC government allowed some PRC firms to list and expand overseas. In 2014, Alibaba raised \$21.8 billion in its offering on the New York Stock Exchange. U.S. investors in TikTok’s PRC parent ByteDance include Sequoia Capital, Susquehanna Group, and KKR. Some PRC firms focused on app offerings to enter foreign markets. They used existing foreign operating systems on mobile phones (e.g., Apple’s iOS and Google’s Android) to avoid upfront technology infrastructure costs and expand quickly. Once established, some PRC firms developed their own infrastructure, such as cloud services, data storage, and semiconductor design. PRC firm Huawei is developing its own operating system.

Some PRC firms inherited foreign user bases and licenses through acquisitions. This approach gave some firms, such as ByteDance, a significant initial U.S. market position, and accelerated these firms’ expansion. In 2017, ByteDance acquired musical.ly, a short-form video app firm. The deal gave ByteDance 80 million monthly U.S. users—a base that is more than half of TikTok’s current user base. ByteDance then used that U.S. user base in launching TikTok. In another example, PRC firm Tencent invested in Snap and Epic Games (the owner of the gaming platform Fortnite). Some firms that are incorporated and/or headquartered in the U.S. and third markets, such as TikTok, have core engineering and technology functions in China and other PRC ties. Temu, founded in Boston, is controlled by a PRC firm. Zoom Video Communications, Inc., founded in California, incorporated in Delaware, and headquartered in the U.S. reports in its FY2024 annual report that “a significant portion of our research and development organization resides in China” and that “we have a significant number of employees, primarily engineers, in China, where personnel costs are less expensive than in many other geographies.”

Table 1. Examples of Digital Platforms in the U.S. Market that have PRC ties

PRC Business	U.S. Business	Sectors
ByteDance/Douyin	TikTok	Social media
Tencent	WeChat	Super app
	Snap/Snapchat	Social media
	Blizzard, Riot, Epic	Gaming
Alibaba	Alibaba, Alipay	E-commerce/payments
Baidu	Apollo	Mapping, autonomy
Yidian Yixun	Newsbreak	News, media
PDD	Temu	E-commerce, clothing
Shein	Shein	E-commerce, clothing
Zoom subsidiaries	Zoom, Zoom.gov	Business software
Shiji Tech	Shiji Technology	Business software/hotel
Binance	Binance.US	Crypto

Source: CRS, with information from media and corporate reports.

PRC Influence and Control

Since 2014, the PRC government and the Communist Party of China (CPC) have adopted interrelated laws, economic security measures, and data restrictions that enhance their control over data and commercial activity, within and outside of China. They have expanded data localization requirements and placed controls on the export of data and algorithms. In 2021, they introduced security review requirements for PRC firms listing or operating overseas. These provisions require firms to adhere to PRC rules when they conflict with U.S. laws. PRC measures seem to be more extensive than other countries' approaches to data security. Such measures have affected U.S. firms' operations in China, raising questions about the extent to which PRC firms operating offshore are independent of the PRC government. Examples of PRC authorities include

- China's National Security Law (2015) requires information systems in China to be "secure and controllable." The law underpins requirements that U.S. firms store data and cryptographic keys in China.
- The PRC's National Cybersecurity Law (2017) requires firms to store personal information and data within China. The law builds on related requirements to place PRC data and related infrastructure in China.
- China's Data Security Law (2021) covers data processing inside and outside China if it "harms the national security, public interest, or the legitimate rights and interests of citizens or organizations of the PRC." It requires PRC government approval for the transfer of data stored in China and calls for classifying data based on its importance to economic and security interests.
- In August 2020, the PRC government placed export controls on algorithms used in social media platforms. Some experts saw this as an effort to influence TikTok and other PRC digital firms' offshore operations.

The CPC requires all firms to house a Party committee that is empowered to attend board meetings and be part of decisionmaking. The PRC government is also an indirect shareholder in some firms. For example, it holds a board seat in Douyin Information Services Co., Ltd (the owner of TikTok's core technology) via a 1% shareholding by a firm backed by China's internet regulator. Other PRC tools to influence PRC digital platform firms include

PRC official content guidelines and censorship rules

restrict and promote content on PRC digital platforms.

China's anti-espionage, cybersecurity, and data security laws compel firms to support PRC state security authorities.

The core business (e.g., software and technology development) and intellectual property is based in China, owned by a PRC parent or subsidiary, and subject to PRC jurisdiction. Offshore structures can obfuscate such ties.

Issues Before Congress

The executive branch has taken steps to restrict some PRC digital firms' operations (**text box**). P.L. 118-50 designates TikTok as a "foreign adversary-controlled application" and requires ByteDance to sell TikTok to a non-PRC owner. It focuses on specific PRC-related national security concerns and conduct of the platform and allows TikTok to operate under new ownership. Proponents have said that this approach was designed to withstand any court challenge

and address national security risks while allowing TikTok a path to operate in the U.S. market. The provisions respond to requests from some Senators to allow up to one year for any divestiture. Members debated how much discretion to give the President to make determinations and whether Congress should protect U.S. data and oversee digital firms more broadly. In response, P.L. 118-50 allows the President to restrict foreign adversary-controlled apps broadly and prohibits the transfer of U.S. personally identifiable sensitive data to a foreign adversary country, or an entity controlled by a foreign adversary, including the PRC. The Federal Trade Commission is to enforce the data provision.

Key U.S. Government Actions

The U.S. government has taken the following actions to restrict some operations of certain PRC digital firms:

May 2019: Executive Order (E.O.) 13873 declared a national emergency to secure U.S. information and communications technology and services supply chains. The E.O. has been renewed annually since 2019. It is up for renewal in May 2024.

January 2020-present: Some federal agencies and state governments banned the TikTok app on government devices.

March 2020: A Presidential Order required PRC firm Shiji Technology to divest StayNTouch, a U.S. software provider. It did not ban the firm from operating in the U.S. market.

August 2020: A Presidential Order required ByteDance to divest Musical.ly/TikTok under the Committee on Foreign Investment in the United States (CFIUS) authorities. TikTok is contesting the Order in court. Since February 2021, the case has been in abeyance at the request of the parties.

August 2020: E.O. 13942 and E.O. 13943 (later rescinded) restricted the U.S. operations of TikTok and WeChat. Court injunctions blocked their implementation.

January 2021: E.O. 13971 provided for scrutiny of apps and software developed or controlled by PRC firms.

June 2021: E.O. 14034 replaced E.O. 13942 and E.O. 13943. It created a Commerce Department program to address risks of foreign adversary-owned internet-tied and software firms.

P.L. 118-50 allows the President to authorize a "qualified divestiture" of TikTok and impose terms. The August 2020 Presidential Order that required ByteDance to divest musical.ly may inform a "qualified divestiture." In referring the matter to the President, CFIUS "unanimously recommended" such action expressly "to protect U.S. users from exploitation of their personal data." TikTok tried to reopen a mitigation path that CFIUS determined was not viable by legally challenging the Order, mostly on due process issues, and republicizing mitigation ideas. Some experts say TikTok could store data in the United States and allow government monitoring. Others say such terms would not address ties to technology and functions in China, including regular software updates and continuous data transmission. Congress might (1) exercise oversight over any divestiture; (2) examine whether TikTok's legal challenge suggests any statutory or policy gaps; and (3) consider whether to act with regard to other PRC platforms.

Karen M. Sutter, Specialist in Asian Trade and Finance
Michael D. Sutherland, Analyst in International Trade and Finance

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