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September 14, 2020

Hon. Steven T. Mnuchin
Chair
Committee on Foreign Investment in the United States
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, D.C. 20220

Dear Secretary Mnuchin:

The Chinese company ByteDance's ownership of TikTok threatens the national security of the United States.

President Trump made that crystal clear on August 6, when he issued an executive order finding that "TikTok automatically captures vast swaths of information from its users, including Internet and other network activity information such as location data and browsing and search histories," that "TikTok also reportedly censors content that the Chinese Communist Party deems politically sensitive," and that TikTok "may also be used for disinformation campaigns that benefit the Chinese Communist Party."¹ That was why the executive order prohibited "any transaction by any person, or with respect to any property, subject to the jurisdiction of the United States, with ByteDance Ltd."—TikTok's Chinese parent company—at the end of a 45-day period.

All of those same threats persist today. China's repressive intelligence laws, which allow the seizure of data from Chinese companies like ByteDance if the Chinese Communist Party comes knocking, still remain in force. And that is why any corporate shell game that leaves TikTok in the hands of ByteDance will simply perpetuate the original problem, leaving U.S. national interests and everyday users at serious risk.

Despite these realities, earlier today Oracle Corporation publicly confirmed reporting from last night that it had reached an agreement to serve as the "trusted technology provider" for TikTok's operations.² It is far from clear what this arrangement entails—doubly so because ByteDance has expressly disclaimed any intention of selling the TikTok algorithm or code.³ Some reports suggest that ByteDance's reticence may be

¹ <https://www.whitehouse.gov/presidential-actions/executive-order-addressing-threat-posed-tiktok/>

² <https://www.cnbc.com/2020/09/14/oracle-confirms-deal-with-tiktok-owner-bytedance-to-become-trusted-technology-provider.html>

³ <https://www.scmp.com/economy/china-economy/article/3101362/tiktoks-algorithm-not-sale-bytedance-tells-us-source>

due to new Chinese export control rules, which allegedly restrict the sale of technologies such as TikTok's recommendation algorithm.⁴

But regardless of the reason, the available evidence compels only one conclusion: *ByteDance has no intention whatsoever of relinquishing ultimate control of TikTok.* ByteDance, as TikTok's parent company, will continue to be subject to Chinese laws that put Americans' data at risk. That is precisely the problem that the President's action sought to solve, and it is that same problem that the proposed Oracle partnership leaves fully intact. In short, the proposal violates the President's executive order.

CFIUS should promptly reject any Oracle-ByteDance collaboration and send the ball back to ByteDance's court so that the company can come up with a more acceptable solution. ByteDance can still pursue a full sale of TikTok, its code, and its algorithm to a U.S. company, so that the app can be rebuilt from the ground up to remove any trace of CCP influence. Or perhaps, given constraints imposed by Chinese law, the only feasible way to maintain Americans' security is to effectively ban the TikTok app in the United States altogether. In any event, an ongoing "partnership" that allows for anything other than the full emancipation of the TikTok software from potential Chinese Communist Party control is completely unacceptable, and flatly inconsistent with the President's Executive Order of August 6.

American national security is on the line. I strongly urge you and the other members of the Committee on Foreign Investment in the United States to immediately reject the proposed Oracle-ByteDance partnership. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Josh Hawley". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

Josh Hawley
United States Senator

⁴ <https://www.digitaltrends.com/social-media/china-block-tiktok-algorithm-us-sale/>