



March 11, 2024

Chairman Mike Gallagher
Select Committee on the Strategic
Competition between the United States and
the Chinese Communist Party
U.S. House of Representatives
Washington, DC 20515

Ranking Member Raja Krishnamoorthi
Select Committee on the Strategic
Competition between the United States and
the Chinese Communist Party
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Gallagher and Ranking Member Krishnamoorthi,

I have received your letter dated March 11, 2024, in which you raise concerns about your constituents exercising their First Amendment rights and contacting their democratically-elected representatives, allege that you are not attempting to ban TikTok, and repeat the inaccurate trope that TikTok is being influenced by the Chinese government. TikTok disagrees with many of the assertions in your letter, which range from offensive to patently false.

As you know, TikTok is a vibrant community of 170 million people strong in the United States, as well as 5 million small businesses who rely on the platform to grow and create jobs. Your two districts alone have more than 207,000 community members on TikTok, as well as more than 3,000 businesses. This latest legislation being rushed through at unprecedented speed without even the benefit of a public hearing, poses serious Constitutional concerns.

First, it is accurate to characterize the *Protecting Americans from Foreign Adversary Controlled Applications Act* as a bill that could ban TikTok.

Chairman Gallagher [has been clear about his goal to ban TikTok in the US](#), and this latest legislative effort is characterized by its own cosponsors as a ban bill. Indeed, [the Committee's own press release announcing the legislation](#) cites four different members describing their pride in cosponsoring this legislation to ban TikTok:

- “I am proud to partner with Representatives Gallagher and Krishnamoorthi on this bipartisan bill to **ban** the distribution of TikTok in the US.”
- “I am proud to join Chairman Mike Gallagher in introducing the Protecting Americans from Foreign Adversary Controlled Applications Act to finally **ban** TikTok in the United States”
- “I’m proud to help lead the bipartisan Protecting Americans from Foreign Adversary Controlled Applications Act, which will **ban** the app from the United States if TikTok is not divested by the Chinese Communist Party”

TikTok Inc.
5800 Bristol Pkwy, Suite 100
Culver City, CA 90230



- “... I’m proud to join this effort to **ban** applications that can be utilized and abused by our adversaries”

You have both appeared in news stories describing the legislation as a ban:



Former President Donald Trump has characterized the legislation as a ban:





Numerous independent constitutional scholars have determined the legislation to be a ban:



Second, Americans have a Constitutional right to petition their government.

We would also like to provide some clarifications around the in-app message that was sent to certain users of the TikTok app:

- Reports that people were forced to enter their zip code to use the TikTok app are false. Users had two ways to dismiss the in-app notification: 1) swiping right or 2) pressing an “x” button. For a brief period, a subset of users had trouble seeing the “x” depending on the background of the last video they watched, but once we learned of this, we quickly remediated, so it was even easier for users to dismiss the in-app notification. No one was forced to enter their zip code or contact their representative to use TikTok.
- TikTok does not currently collect precise GPS information in the U.S. and, as such, this data was not used to contact your constituents. In fact, users who



wanted to call their Members of Congress voluntarily chose to enter their zip code.

- The decision to send messages to US users was made by American employees in leadership roles based in New York, Los Angeles and Washington, DC.

Furthermore, TikTok takes issue with your apparent concern that your constituents, under their constitutionally-protected right to petition, were contacting your offices to express their views about a piece of legislation and how they might be affected should such legislation be passed into law. Since your letter makes it clear that you have pre-conceived notions about TikTok based on what you read in the media -- rather than facts or reality -- below we provide some statements from First Amendment experts:

- [National Constitution Center](#): *“One of the risks of representative democracy is that elected officials may favor the narrow partisan interests of their most powerful supporters, or choose to advance their own personal interests instead of viewing themselves as faithful agents of their constituents. A robust right to petition is designed to minimize such risks. By being forced to acknowledge and respond to petitions from ordinary persons, officials become better informed and must openly defend their positions, enabling voters to pass a more informed judgment.”*
- [Freedom Forum](#): *“The First Amendment is the cornerstone of a government of, by and for the people. One of the five freedoms it guarantees is the right of the people to petition the government for change. The right to petition protects our right to ask the government to fix a wrong or change a policy. We can petition the federal, state and local governments. Petitions directed to the judicial, executive and legislative branches are all protected. Petitioning can mobilize popular support to change existing laws in a peaceful manner. Petition is a powerful tool that has supported social change from the birth of our nation to ending slavery, women’s suffrage and the civil rights movement. The right to petition does not guarantee a petition will be answered. It does protect the right to complain to the government without fear of punishment.”*

It is offensive that you would complain about hearing from your constituents and seek to deny them of their constitutional rights. One would hope, as public servants, that you would be well acquainted with the constitutional right to petition the government for redress of grievances.

Third, as we have repeatedly explained to Congress, TikTok is not owned or controlled by the Chinese government.

The ultimate parent company of TikTok Inc. is ByteDance Ltd., a privately-owned holding company established in the Cayman Islands. ByteDance Ltd. is majority owned by investors around the world, and the rest of the shares are owned by the founding team and employees around the world. **ByteDance Ltd.’s Board of Directors is comprised of five individuals, three of whom are American.**



Moreover, TikTok has imposed data access policies to help ensure that adequate safeguards are in place to protect personal information. Since January 2023, new protected US TikTok user data has been stored in the Oracle Cloud in an environment controlled by TikTok Inc.'s U.S. subsidiary, USDS. Only USDS personnel are able to access protected U.S. TikTok user data in the Oracle environment, unless authorization is given by USDS pursuant to limited exceptions, such as for legal and compliance purposes (which does not include compliance with the Chinese national security law). Traffic from the Oracle Cloud now goes through Oracle controlled gateways to prevent protected U.S. TikTok user data from being transferred to or accessed by employees of TikTok or ByteDance.

These efforts are unprecedented among our peer group to build a secure environment for protected U.S. user data. TikTok is the only company that has committed, and invested more than \$1.5 billion, to address the risks that the Act purports to solve. Under a divestment scenario, it is highly unlikely a company purchasing TikTok would continue this expensive, groundbreaking work. Ironically, U.S. user data could be *less* secure under a divestment scheme.

We look forward to continuing our conversations with Congress.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Beckerman".

Michael Beckerman
Vice President, Public Policy