



How America Can Still Cripple TikTok

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Big policy changes rarely happen in presidential-election years. In fact, China's social-media giant, TikTok, is counting on them not to happen.

The wildly popular platform narrowly escaped being banned by Congress in March 2023, when its CEO, Shou Chew, testified on Capitol Hill and proceeded to spend eye-popping lobbying fees to stave off further action. By all accounts, its success has been remarkable. Since Shou's testimony, new information has emerged regarding the Chinese Communist Party's (CCP) control over TikTok's parent company, ByteDance. Studies have demonstrated TikTok's willingness to censor anti-CCP content and boost messages aligned with Beijing's foreign policy. It even appears that Shou lied during his congressional testimony, when he promised that U.S. user data is never stored in China.

Despite these revelations, TikTok has not only survived, but thrived. It plans to scale-up its e-commerce business tenfold in the United States to rival Amazon, which would make the national-security threats TikTok poses even more difficult to mitigate. TikTok also has political help. Billionaire donors like Jeffrey Yass (an early TikTok investor) and Larry Ellison (the CEO of Oracle, a key TikTok partner) have made generous campaign contributions to several members of Congress, many of whom have either opposed banning TikTok or slow-walked the process of doing so.

Some may argue that, at this point, it's simply impossible to target TikTok, and that policy-makers should instead work to prevent the next similar viral platform from emerging. But declaring defeat against an app that serves as a Chinese Trojan Horse is both defeatist and premature. America can still defang TikTok in 2024. Indeed, Washington could deal a death blow to the app within a matter of days.

Of course, this possibility runs counter to TikTok's current aura of invincibility. The company has successfully stymied attempted bans in the courts and frozen congressional legislation. What more could be done? The answer can be found at an office at the U.S. Department of Commerce known as the Bureau of Industry and Security.

When policy-makers want to protect American technology from falling into the hands of foreign adversaries, they often add problematic foreign actors to the Commerce Department's Entity List. Doing so requires American companies to obtain a license from the U.S. government before they can export goods, services, or technology to the designated entity.

How could this implicate TikTok? Its parent company, ByteDance, is based in China. TikTok also has a number of foreign affiliates. As a result, these entities are subject to U.S. export controls. If the Department of Commerce placed them on the Entity List, this would impose a legal requirement on the 150 million Americans on TikTok: They would each need to obtain a license from the federal government in order to update the app on their phones.

That alone would have a powerful chilling effect. Parents would surely be concerned about kids' obtaining a license to maintain an app owned by a designated national-security risk. But the Commerce Department could go another step further, and impose a presumption of denial on any such requests — as successive administrations have done with other Chinese companies, like Huawei. Under these conditions, TikTok would sit on Americans' phones with no access to software patches or upgrades. Over time, the app would atrophy.

According to former assistant secretary of commerce Nazak Nikakhtar, this understudied approach would likely avoid the legal issues involved in banning TikTok outright. It would also short-circuit the current deadlock in Congress. It would just require the support of President Biden.

As a candidate in the 2020 race, Biden called TikTok a "matter of genuine concern." As president, his administration's efforts to address the issue have run aground. If he wanted to, Biden could potentially cripple TikTok with the stroke of a pen. Doing so would come at a cost: The president's deputies and political advisers consider TikTok a crucial tool for messaging and get-out-the-vote efforts in the general election. But it's a cost the president should be willing to pay. National security should always come first, even — and perhaps especially — in an election year.