HOUSE COMMITTEE ON ENERGY AND COMMERCE

"TikTok: How Congress Can Safeguard American Data Privacy and Protect Children from Online Harms"

March 23, 2023 – 10:00 AM

OVERVIEW

On Thursday, March 23, the House Energy and Commerce Committee held a hearing entitled, "TikTok: How Congress Can Safeguard American Data Privacy and Protect Children from Online Harms." During the hearing, Members and witness discussed: security and transparency, including ByteDance-TikTok divestment and Chinese Communist Party data access, third-party audits, cloud infrastructure, and data collection practices; content moderation, including violent and dangerous content, discrimination, misinformation, censorship and government interference, and Section 230; and children's health and safety, including targeted advertisements, screentime, and age verification.

OPENING STATEMENTS

- Chair Cathy McMorris Rodgers (R-WA)
- Ranking Member Frank Pallone (D-NJ)

WITNESS

- Mr. Shou Chew – CEO, TikTok Inc.

QUESTION AND ANSWER SUMMARY

Security and Transparency
ByteDance-TikTok Divestment and CCP Data Access
Chair Rodgers questioned if TikTok is in regular communication with leadership at ByteDance. Mr. Chew confirmed he is in communication with the ByteDance CEO, but not in regular communication with leaders at the company affiliated with the Chinese Communist Party (CCP).

Chair Rodgers and Rep. Richard Hudson (R-NC) asked if Mr. Chew could ensure neither ByteDance nor TikTok employees could target Americans with surveillance tactics, similar to the incident reported by Forbes in October 2022. Mr. Chew argued TikTok is committed to protecting U.S. user data and asserted the company does not condone the efforts by former employees to access U.S. data. He reported the company took swift action against these employees and implemented measures to prevent future incidents.

Chair Rodgers, Rep. Jan Schakowsky (D-IL), and Rep. Tim Walberg (R-MI) cited a Wall Street Journal article which reported the CCP strongly opposes the sale of TikTok by ByteDance, which the CCP argued must be approved by the Chinese government. Rep. Schakowsky requested Mr. Chew respond to these allegations. Mr. Chew disagreed with the characterizations by the CCP. He explained TikTok is currently developing Project Texas, which is designed to implement strict protections to ensure American data is stored in the U.S., by an American company, and overseen by American personnel. He confirmed the Chinese government should not need to agree to this plan before it can progress.

Rep. Scott Peters (D-CA) noted Project Texas includes several broad exceptions to allow U.S. data to routinely leave the country and raised concerns about the likelihood of the initiative's success with these exceptions. Mr. Chew clarified almost all non-public data would qualify as protected data, and any data leaving the U.S. would not be personally identifiable. He noted the exceptions are designed to support interoperability, which is supported by aggregated and anonymized data sets.

Reps. Anna Eshoo (D-CA), Kelly Armstrong (R-ND), and Dan Crenshaw (R-TX) noted TikTok's privacy policy discloses the platform may share user data with members of its corporate group, including ByteDance. They raised concerns ByteDance and TikTok employees based in China could be forced to share data on U.S. users, per the 2017 Chinese National Intelligence Law compelling companies to provide data to the Chinese government upon request. Rep. Eshoo questioned how terminating TikTok's relationship with ByteDance may protect American user data, and if a clean break between the two companies would be possible. Mr. Chew explained with Project Texas, TikTok plans to transition all American data storage to U.S. soil, managed by an American company. He added he has observed no evidence that the Chinese government has access to this data, as TikTok has not provided data nor has the Chinese government requested it. Mr. Chew recognized there are concerns about a subsidiary entity of ByteDance within the corporate group that the Chinese government has invested in, but reported TikTok has cut off access to U.S. data sets to the employees of this entity. He added once Project Texas is complete, TikTok will be the only entity with access to user data.

Rep. Robert Latta (R-CA) asked if ByteDance employees are subject to Chinese law requiring any organization or citizen in China to support, assist, or cooperate with Chinese state intelligence work. Mr. Chew argued the company relies on the global workforce, including individuals in China, and these employees would be subject to the law. He asserted, however, TikTok is in the process of developing Project Texas to firewall all U.S. data from foreign access. Rep. Latta asked if any ByteDance employees in China currently have access to U.S. user data. Mr. Chew reported all new U.S. user data is stored in the Oracle cloud infrastructure and access is controlled by U.S. personnel. He clarified some existing data still requires deletion or protection.

Rep. Hudson raised concerns about surveillance on TikTok and the CCP's opportunity to exploit the platform for data on U.S. citizens. He argued Congress and the U.S. military should address TikTok on service members' personal devices in addition to the ban of the app on government devices. He questioned if TikTok accesses users' Wi-Fi networks, and in turn, could access other devices on those networks. Mr. Chew explained the app does access Wi-Fi networks, but does not connect to other devices on those networks, in line with industry standards.

Rep. Debbie Lesko (R-AZ) noted several other countries, including New Zealand, Canada, the United Kingdom, and Belgium, have banned the use of TikTok on government devices, citing security risks with the company's data collection and connection with the CCP. She also highlighted recent testimony from Federal Bureau of Investigation (FBI) Director Christopher Wray, who argued, "TikTok is a tool ultimately within the control of the Chinese government, and screams out with national security concerns." She asked if these judgements are incorrect. Mr. Chew argued the risks pointed out are hypothetical and theoretical, and asserted he has not seen evidence of these concerns.

Third-Party Audits

Rep. Eshoo asked who designs TikTok's algorithms. Mr. Chew explained the algorithm powering the U.S. experience operates in the Oracle cloud infrastructure. He noted while parts of the source code at the infrastructure layer, which does not touch the user experience, was a collaborative global effort including Chinese engineers, the main code was written by TikTok employees. Mr. Chew added TikTok is implementing third-party audits of its source code to prove the company's commitment to transparency.

Rep. Jay Obernolte (R-CA) noted Mr. Chew testified Project Texas will have engineers at Oracle examining TikTok's source code and asked about the size of this code base and what aspects of the code will be examined. Mr. Chew noted the base size is significant, but expressed confidence the examination can be successfully completed. He explained the review will be comprehensive, including software that powers the user experience. Rep. Obernolte asked how TikTok plans to ensure malicious actors are not hired by any third-party auditors examining the system. Mr. Chew explained there will be several layers of monitoring to ensure one malicious actor cannot create damage. Rep. Obernolte inquired about the process of developing new code for TikTok. Mr. Chew explained any new code written for the app is reviewed by a U.S. team with security credentials to ensure security and integration.

Rep. Darren Soto (D-FL) recognized while there are serious concerns about the impact of TikTok on consumers, those concerns also apply to other major social media platforms as well. He argued effective regulation of social media as a whole, including a comprehensive data privacy bill with mechanisms to protect children's safety, is needed to address the issue. Rep. Soto questioned if TikTok would be prepared to divest from ByteDance, if instructed by the Department of Treasury. Mr. Chew agreed privacy concerns must be addressed but argued ownership of the company is not the issue, noting even American social media companies do not have a strong track record for data privacy and security. He concluded Project Texas will provide important security and transparency measures to address these concerns.

Rep. Lori Trahan (D-MA) asked if TikTok would consider expanding researcher access to its API to allow researchers to evaluate how algorithms recommend specific content to users. Mr. Chew reiterated TikTok's commitment to transparency and third-party monitoring.

Cloud Infrastructure

Rep. Lisa Blunt Rochester (D-DE) noted Mr. Chew cited a $1.5 billion investment to implement Project Texas and asked how this funding will be distributed. Mr. Chew explained the investment is spread across many efforts, including data migration, cloud infrastructure, security controls, and new employees.

Rep. John Joyce (R-PA) inquired about the timeline for transitioning TikTok data to the Oracle cloud infrastructure. Mr. Chew explained all new data collected is already stored in the Oracle cloud infrastructure by default, and the transition for existing data should be complete this year. Rep. Joyce raised concerns user data remains accessible to the CCP until it is moved to the cloud infrastructure. Mr. Chew disagreed with this assessment, and asserted TikTok is a private company.

Rep. Obernolte asked who will have access to data stored within Project Texas once the transition to the cloud infrastructure is complete. Mr. Chew explained TikTok's U.S. Data Security team, led by American personnel, has access to this data.

Data Collection Practices

Ranking Member Pallone advocated for comprehensive data privacy legislation and asked if TikTok would commit to data privacy measures, such as banning the sale of the data it collects on its users. Mr. Chew reported the platform does not sell to any data brokers. Ranking Member Pallone clarified the American Data Privacy and Protection Act (ADPPA) would restrict the sale of data to any third party, not just specifically data brokers. He questioned if TikTok would support this provision. Mr. Chew noted he supports privacy measures and committed to following up on the company's official position on data sales.

Ranking Member Pallone inquired if TikTok would commit to restricting the collection of location or health data without affirmative consent, noting the ADPPA includes heightened security requirements for sensitive information. Mr. Chew asserted he supports consent mechanisms and noted TikTok does not collect precise location or health data. He committed to transparency about the platform's data collection practices.

Rep. Schakowsky raised concerns about reports that TikTok's online browser tracks and collects sensitive data on U.S. citizens without consent. Mr. Chew argued TikTok does not collect any more data than other social media companies. He also noted many reports are speculation and may not be accurate.

Rep. Buddy Carter (R-GA) asked if TikTok collects biometric data to influence its algorithm. Mr. Chew confirmed TikTok does not collect body, face, or voice data to identify users. He clarified some facial data is collected to use certain filters, but this data is deleted immediately after use.

Rep. Debbie Dingell (D-MI) asked if TikTok has ever collected precise geolocation data from its users, and if it uses location data to target advertisements. Mr. Chew clarified TikTok did collect precise location data several years ago, but has since ended the practice.

Rep. Blunt Rochester asked if Mr. Chew would oppose legislation banning intentionally manipulative design techniques that trick users into providing personal information. Mr. Chew agreed this type of practice is not acceptable. Rep. Blunt Rochester questioned if TikTok users can opt out of targeted advertisements. Mr. Chew argued recommended content is an important part of the platform's experience. He added users have many options to control their privacy settings.

Rep. August Pfluger (R-TX) cited TikTok's privacy policy, which details the platform's collection of data including keystroke patterns, app file names and types, and approximate location. He asked why this data is collected. Mr. Chew explained keystroke data is collected to identify bots, and is not used to monitor users' communications. He added this is a standard industry practice.

Rep. Mariannette Miller-Meeks (R-IA) asked if TikTok keeps record of users' credit cards and passwords. Mr. Chew explained the app does not require credit information to create an account, and does not believe this data would be collected at this time. He noted, however, the platform is planning to launch an ecommerce plan, which would require credit card information, but asserted this data would be stored within the Project Texas firewall in the Oracle cloud infrastructure, overseen by U.S. personnel.

Rep. Armstrong noted TikTok's privacy policy details extensive data collection on users, including information from other publicly available sources. He asked why TikTok would need to obtain more data on users beyond what is collected from the platform itself. Mr. Chew argued data collection serves to provide users with a better experience, and noted the platform provides extensive transparency about what data is collected on users and options for various privacy settings. Rep. Armstrong questioned if users fully understand TikTok's data collection extends to information outside of their use of the app. Mr. Chew argued the policies are transparent, and asserted TikTok does not collect more information than other social media platforms.

Content Moderation
Violent and Dangerous Content
Rep. Doris Matsui (D-CA) noted TikTok deploys algorithms to promote continued engagement, and raised concerns this may exacerbate existing mental health challenges. She questioned if TikTok has separate policies for amplifying content related to issues like depression or dieting, compared to content about healthy behaviors. Mr. Chew explained anything violative and harmful is immediately removed, and the platform is testing policies with experts to better understand how some content not inherently harmful, like extreme fitness, should be less prevalent.

Rep. Kat Cammack (R-FL) called attention to a violent video on TikTok threatening Members of the Committee, despite the platform's community guidelines expressly prohibiting such conduct. She questioned why this video has been allowed to remain on the platform for 41 days, and why TikTok should be trusted to protect the data and security of its users.

Rep. Gus Bilirakis (R-FL) raised concerns about the prevalence of extremely harmful content on TikTok, such as videos about suicide. He asked if Mr. Chew takes full responsibility for TikTok's algorithms promoting this content online. Mr. Chew argued TikTok takes the issue very seriously and provides resources for any user who searches concerning content on the platform. Rep. Bilirakis emphasized the urgency of a comprehensive data privacy bill to combat this issue.

Rep. Paul Tonko (D-NY) asked if TikTok collects data about its users from third parties, including health data from apps like BetterHelp or Cerebral. Mr. Chew reported TikTok does not receive health information from third parties.

Rep. Tonko argued TikTok exploits users' anxieties by pushing alarming content on their feeds, noting a May 2021 report found the platform showed upsetting content about miscarriages and delivery room traumas to pregnant women after they searched for information about pregnancy. He raised concerns TikTok spreads harmful content to feed user engagement, which fuels increased revenues. Rep. Tonko asked what percent of content on the platform could be considered distressing or harmful. Mr. Chew contended TikTok works with experts on this issue. He noted younger users are specifically shown less harmful content, and highlighted the value of the platform to connect users with healthy communities. Mr. Chew reiterated TikTok removes all explicitly harmful content, including videos about eating disorders, for example, and is researching ways to minimize potentially negative content that does not specifically violate community guidelines. Further, he reported any user who searches a harmful or dangerous topic will be redirected to a safety page with resources.

Reps. Brett Guthrie (R-KY) and Angie Craig (D-MN) argued content about illicit substances remains prevalent on TikTok, despite guidelines prohibiting such content. He asked how quickly the platform's algorithms detect content about illicit substances before it is manually reported by users. Mr. Chew explained the company has nearly 40,000 employees working on this issue alongside automated moderation processes, and seeks to eliminate all instances of violative content. He added metrics on the amount of harmful content removed from TikTok is available in the company's transparency report. He recognized while no system is perfect, TikTok is investing significant resources to address this challenge. Further, he detailed measures such as prohibiting direct messaging for users under 16 and redirection to resources upon searching for illicit substances on the platform to help address efforts to push illegal activity, especially among minors. Mr. Chew also noted the proliferation of content specifically about illegal drugs in any given country is often reflective of that nation's laws; for example, Singapore has extremely strict drug laws, and content about substances is nearly nonexistent as a result.

Rep. Troy Balderson (R-OH) asked if TikTok limits the amplification of harmful content on its platform. Mr. Chew clarified any dangerous content is removed entirely from the platform. Rep. Balderson argued TikTok continues to allow harmful content. Mr. Chew disagreed with this assessment, asserting the algorithm drives a very positive experience for many users. He cited the value of educational trends like "BookTok," which has encouraged millions of users to read. Mr. Chew acknowledged there are malicious users who seek to spread harmful content, but reiterated the platform's commitment to swiftly removing any such content.

Rep. Rick Allen (R-GA) raised concerns TikTok's algorithm curates inappropriate content for children, including drug-related videos and pornography. He asked how this type of content reaches a child's feed on the app. Mr. Chew asserted this type of content is strictly prohibited on the platform, but recognized content moderation remains a major problem for the entire social media industry.

Discrimination

Rep. Matsui highlighted her Algorithmic Justice and Online Transparency Act, which would prohibit algorithms that discriminate on the basis of protected characteristics and establish a safety and effectiveness standard to provide oversight of algorithms; part of this requirement would include a mandatory annual public report detailing platforms' content moderation practices. She asked if this annual report would be beneficial. Mr. Chew responded affirmatively.

Rep. Yvette Clarke (D-NY) warned without mitigation measures against bias, algorithms on social media platforms will continue to replicate and exacerbate discrimination and exclude important dialogue about sensitive topics. She cited reports detailing how TikTok's content moderation process flagged phrases like "Black Lives Matter" as inappropriate content. She questioned if platforms like TikTok should be subject to audits and transparency requirements to identify what policies have a disparate impact on communities of protected classes. Mr. Chew agreed platforms should be transparent and committed to ensuring TikTok is a venue for freedom of expression, as long as users do not violate safety expectations.

Rep. Clarke raised concerns TikTok's algorithms remain ignorant of fundamental diversity, while also failing to remove harmful content. She noted the platform's guidelines stipulate creators must be in good standing and cannot violate community guidelines to receive compensation from TikTok's Creator Fund, but worried the platform is incorrectly flagging content as violative, restricting those users' eligibility for compensation. Mr. Chew explained TikTok has an appeals process to dispute incorrect assessments. Rep. Clarke argued if TikTok disproportionately incorrectly removes content from Black creators, the platform then excludes and silences those creators. She advocated for accountability and transparency to combat this problem.

Misinformation

Rep. Marc Veasey (D-TX) raised concerns TikTok's content moderation processes did not adequately address election misinformation in 2022, noting 90 percent of misinformation ads were not detected. He asked about TikTok's election misinformation policy. Mr. Chew explained TikTok takes election misinformation very seriously and works with third-party auditors to examine the issue. He added the platform does not accept money for political ads.

Rep. Blunt Rochester raised concerns about abortion misinformation and questioned if TikTok removes this type of content. Mr. Chew explained content about abortion on both sides of the political spectrum is permitted on the platform, but clarified any dangerous medical misinformation is removed in consultation with industry experts.

Rep. Raul Ruiz (D-CA) raised concerns about COVID-19 misinformation on TikTok, noting the platform's community guidelines prohibit "misleading information that causes significant harm," but allowed videos containing vaccine misinformation to remain online. He cited, for example, the Institute for Strategic Dialogue found a sample of 124 videos with vaccine misinformation were viewed 20 million times, while the Journal of American Medical Informatics Association found when searching coronavirus on TikTok, almost 30 percent of the videos contained misinformation. Rep. Ruiz asked how these videos were able to remain online amidst the company's efforts to enforce its community guidelines. Mr. Chew reported the company coordinates with third-party experts to develop policies to recognize and remove misleading content. Rep. Ruiz questioned how these measures are effective if the content continues to spread, and if TikTok plans to modify its policies to combat the problem. Mr. Chew reasserted the platform's commitment to proactively removing dangerous misinformation.

Rep. Ruiz called attention to the disproportionate impact of misinformation on Spanish-speaking communities. He asked how TikTok addresses Spanish content in comparison to its English-speaking efforts. Mr. Chew noted TikTok employs many Spanish-speaking content moderators and asserted all misinformation is addressed, regardless of language.

Censorship and Government Influence

Chair Rodgers asked if employees at TikTok have engaged in heating content for users outside of China. Mr. Chew explained the heating process is approved by local teams in various countries. Chair Rodgers asked if any content associated with the Uyghur Genocide or the Massacre of Tiananmen Square has ever been removed from TikTok. Mr. Chew confirmed TikTok does not remove this type of content, and asserted it remains a platform for free expression. Chair Rodgers questioned if the CCP can use TikTok to heat pro-CCP messages. Mr. Chew confirmed TikTok does not promote or remove content at the request of the Chinese government, and reasserted TikTok's commitment to prohibit any government manipulation.

Rep. Bill Johnson (R-OH) highlighted a Citizen's Lab report, which noted TikTok's data collection using third-party trackers was in conflict with the EU's General Data Protection Regulation (GDPR), while multiple themes were censored by the platform. He added the report also outlines how the functions and classes of the U.S. and Chinese apps were nearly identical, while differences in behavior between TikTok in the U.S. and Douyin in China are only slight changes in hard-coded values; specific censorship parameters are coded on TikTok, but simply turned off. Rep. Johnson asserted TikTok's source code contains extremely concerning controls and questioned why Mr. Chew has not directed TikTok's engineers to change this source code. Mr. Chew argued the platform does not censor content.

Rep. Randy Weber (R-TX) questioned if the CCP has ever attempted to influence TikTok users with algorithms or paid content. Mr. Chew asserted TikTok does not promote or remove any content on behalf of the Chinese government. He explained there is only one process at the company to remove content, operated by TikTok's content moderation team, headquartered in Ireland and the United States; content is only removed if it violates the platform's guidelines, and the process is regularly audited.

Rep. Pfluger questioned if TikTok distributes any content from Chinese state media. Mr. Chew confirmed it does, but clarified this type of content is clearly labeled to warn users the content is sponsored. Rep. Pfluger cited FBI Director Wray and National Security Agency Director Paul Nakasone's warnings the CCP could have the capability to manipulate data and send it to the United States. He questioned if Mr. Chew disagrees with this assessment. Mr. Chew agreed this is a concern. Rep. Pfluger then asked if the CCP, under the guide of ByteDance, could manipulate content shared on TikTok. Mr. Chew clarified he agrees there is a general risk of data manipulation by the CCP across the digital ecosystem.

Section 230

Rep. Latta argued Section 230 should not protect companies from liability if they amplify harmful content to children. He questioned if TikTok should enjoy protection under Section 230. Mr. Chew explained Section 230 is important to free expression online and supported its preservation, but noted companies should improve their safety efforts. Rep. Latta urged Congress to amend Section 230.

Rep. John Curtis (R-UT) noted there is a difference between content distributors and content publishers in the context of Section 230 protections. He questioned if platforms that use recommendation algorithms shift from distributors to publishers when they promote specific types of content to users. Mr. Chew argued it is a very complex question, requiring further examination.

Children's Health and Safety

Targeted Advertisements

Ranking Member Pallone asked if TikTok would support a prohibition on targeted marketing and advertisements to children under 17. Mr. Chew argued TikTok has strict rules for Children's advertising.

Rep. Kathy Castor (D-FL) highlighted the strong influence TikTok has on children in the U.S., and noted children are incredibly profitable users of the platform. She asked if TikTok allows advertisers to specifically target ads to children between the ages of 13 and 17. Mr. Chew confirmed the platform serves personalized advertising, but asserted its policies are safe. He added TikTok does have an under-13 experience, which prohibits advertising entirely.

Screentime and Age Verification

Rep. Matsui argued social media companies are aware of the negative impact their products have on users, demonstrating a pattern of negligent behavior. She questioned if TikTok conducts studies on the effect of its algorithms and content distribution models on mental health and safety, especially for children. Mr. Chew explained TikTok relies on external third parties and funds their research to better understand these issues. For example, he highlighted the platform's work with the Digital Wellness Lab at the Boston Children's Hospital to understand the benefits of a 60-minute time limit for underage users. He added TikTok remains supportive of legislation to fund additional research.

Rep. Diana DeGette (D-CO) raised concerns about the proliferation of dangerous content on TikTok, especially medical misinformation. She noted the platform has implemented controls to protect children, but raised concerns they are insufficient. Rep. DeGette asked what TikTok can do to monitor inappropriate content for children, rather than placing the burden on children and parents to provide age verification and enjoy age-restriction protections on the platform. Mr. Chew asserted dangerous content is not allowed on the platform, but recognized TikTok may not be 100 percent effective at removing it. He explained TikTok has invested significant funding to improve content moderation, and highlighted measures such as directing users to official resources when searching for information like health guidance. Mr. Chew agreed TikTok must take safety very seriously.

Rep. John Sarbanes (D-MD) raised concerns about evidence demonstrating the more time children and teens spend on social media, the more likely they are to experience anxiety and depression, while many platforms deploy mechanisms to increase engagement. He questioned if TikTok is examining ways to redesign core features to be less manipulative and addictive for users. Mr. Chew argued TikTok seeks to lead the industry in user safety, and highlighted the recent launch of a 60-minute limit for underage users. He also noted users under 16 are restricted from using the direct messaging feature, videos from users under 16 cannot go viral on the platform, and users under 18 are prohibited from live streaming. Rep. Sarbanes warned children can likely very easily bypass the 60-minute limit and asked if the platform is measuring violations of the policy. Mr. Chew argued TikTok intends for parents to engage with their children to support these age restrictions.

Rep. Carter asked how TikTok verifies users' ages. Mr. Chew explained the platform asks users to enter their own birthdates when making an account, and as an added check, examines whether videos publicly posted by that user indicate if their age matches what was reported. He recognized age verification is a major industry challenge, given the need to balance privacy and age assurance.

Rep. Kim Schrier (D-WA) raised concerns the 60-minute limit on TikTok for children is an ineffective measure, as many will circumvent it. She asked about next steps to address children's engagement and subsequent harms. Mr. Chew explained TikTok provides parents with a family pairing tool to set restrictions on their children's accounts. He also highlighted the academic value of content on TikTok. Rep. Schrier countered there is also an abundance of harmful content and misinformation and advocated for stronger measures.

Rep. Ann Kuster (D-NH) raised concerns with the family pairing mechanism on TikTok, noting parents must download the app to use the feature, which she worried may be a design feature to lure more users. She questioned if TikTok will develop other mechanisms to allow parents to monitor their children's use without forcing them to also download the app on their phone. Mr. Chew committed to looking into the issue, but asserted the family pairing tool is very helpful.

--
Please click here for the archived hearing.