

TikTok's two paths to avoid US ban: Beg SCOTUS or woo Trump



“What the Act targets is the PRC’s ability to manipulate that content covertly,” the ruling said. “Understood in that way, the Government’s justification is wholly consonant with the First Amendment.”

TikTok likely to appeal to Supreme Court

TikTok is unsurprisingly frustrated by the ruling. In a statement provided to Ars, TikTok spokesperson Michael Hughes confirmed that TikTok intended to appeal the case to the Supreme Court.

“The Supreme Court has an established historical record of

protecting Americans' right to free speech, and we expect they will do just that on this important constitutional issue," Hughes said.

Throughout the litigation, ByteDance had emphasized that divesting TikTok in the time that the law required was not possible. But the court disagreed that ByteDance being unable to spin off TikTok by January turned the US law into a de facto TikTok ban. Instead, the court suggested that TikTok could temporarily become unavailable until it's sold off, only facing a ban if ByteDance dragged its feet or resisted divestiture.

There's no indication yet that ByteDance would ever be willing to part with its most popular product. And if there's no sale and SCOTUS declines the case, that would likely mean that TikTok would not be available in the US, as providing access to TikTok would risk heavy fines. Hughes warned that millions of TikTokers will be silenced next year if the appeals court ruling stands.

"Unfortunately, the TikTok ban was conceived and pushed through based upon inaccurate, flawed and hypothetical information, resulting in outright censorship of the American people," Hughes said. "The TikTok ban, unless stopped, will silence the voices of over 170 million Americans here in the US and around the world on January 19th, 2025."

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