

Trump declares TikTok, WeChat “national emergency,” preps bans

Enlarge / If the Trump administration has its way, these logos will be scarce inside the US in a few weeks.

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The White House’s campaign against the China-based developers of popular apps escalated dramatically in the last day, as President Donald Trump declared both TikTok and WeChat to be national emergencies and said the administration will ban or curtail their operations in September.

Trump late Thursday signed a pair of very similar executive orders “addressing the threat” allegedly posed by TikTok and WeChat.

“The spread in the United States of mobile applications developed and owned by companies in the People’s Republic of China (China) continues to threaten the national security, foreign policy, and economy of the United States,” both orders read. “The United States must take aggressive action against the owners” of the apps “to protect our national security.”

Why?

The White House explained its “national security” concerns about the apps and their parent firms in a pair of highly similar letters to congressional leaders.

TikTok “automatically captures vast swaths of information from its users,” the TikTok letter reads, continuing:

This data collection threatens to allow the Chinese Communist Party access to Americans’ personal and proprietary information—potentially allowing China to track the locations of Federal employees and contractors, build dossiers of personal information for blackmail, and conduct corporate espionage. TikTok also reportedly censors content that the Chinese Communist Party deems politically sensitive, such as content concerning protests in Hong Kong and China’s treatment of Uyghurs and other Muslim minorities. TikTok may also be used for disinformation campaigns that benefit the Chinese Communist Party.

WeChat does all that, too, the other letter alleges, and it also “captures the personal and proprietary information of Chinese nationals visiting the United States, thereby allowing the Chinese Communist Party a mechanism for keeping tabs on Chinese citizens who may be enjoying the benefits of a free society for the first time in their lives.”

The political rhetoric in the orders makes it clear that in addition to concern about Americans’ user data potentially being sent to and digested by a foreign government, the orders are also part of the ever-escalating trade tensions between the Trump administration and China that has led to bans on equipment from Huawei and ZTE and increased tariffs on imported goods, among other actions.

What does “aggressive action” look like?

The exact parameters of the orders are vague and unspecific, but neither explicitly bans the use of WeChat or TikTok in the US. Nor do the orders technically prohibit the developers' respective parent companies Tencent and ByteDance from operating in the United States.

What the orders do ban, however, are “transactions” related to ByteDance or WeChat—but not, apparently, the rest of Tencent. Those transactions are not clearly identified in either order, which instead say that the Secretary of Commerce (currently Wilbur Ross) has 45 days to “identify the transactions subject” to the order.

The order does not appear to conflict with Microsoft's plans to acquire TikTok, provided that the companies do indeed manage to get through talks and pull off a deal by September 15. However, the orders could theoretically prohibit distribution of the apps by the Apple App Store or Google Play, which would effectively keep them out of the hands (and off of the phones) of new users in the United States.

TikTok, like other social networks, makes money through both in-app purchases and selling advertising. It is possible that either or both of those revenue streams could be cut off by the order, as selling anything to users or to businesses could be considered a kind of transaction.

WeChat is not widely used inside the United States. In China, however, it's basically the everything app. Where an American mobile user might cue up Uber, Amazon, GrubHub, Facebook Messenger, Venmo, and Apple or Google Pay to run through an hour's worth of chat and errands, a mobile user in China would do basically all of that and more through WeChat. All of those functions help generate revenue for WeChat, but it's not clear

which would or would not be considered “transactions” for the administration’s purposes.

“Clean Network” purge

The orders are part of a new “Clean Network” initiative the State Department announced Wednesday. The initiative is nominally a “comprehensive approach to guarding our citizens’ privacy and our companies’ most sensitive information from aggressive intrusions by malign actors, such as the Chinese Communist Party (CCP).”

The Clean Network program, like the executive orders, is not particularly detailed, but its overall goal is clear from its five key “lines of effort,” all of which aim to keep Chinese firms far away from US consumers, networks, and technologies.

The orders affecting WeChat and ByteDance both seem to stem from the “Clean Store” initiative “to remove untrusted applications from US mobile app stores.” According to the State Department, apps from China “threaten our privacy, proliferate viruses, and spread propaganda and disinformation.”

Plenty of homegrown US apps, such as Facebook and Twitter, have also been used to spread disinformation, sometimes on behalf of foreign actors, but the “Clean Network” initiative does not address those concerns.

Can they even do that, though?

Maybe?

US regulators have been probing TikTok since November, when the Committee on Foreign Investment in the United States, or the CFIUS, launched a review of the app. The CFIUS, a multi-agency committee headed by the Treasury Department, reviews transactions in which a foreign buyer acquires a US firm for

potential national security concerns. TikTok formed when ByteDance bought a US service in 2017 and then rebranded and relaunched it under the TikTok name. The CFIUS did not review the Musical.ly deal at the time, but is now doing so retroactively.

The executive order against TikTok, however, does not cite the CFIUS review, and the CFIUS has not issued a public report or statement about the investigation. WeChat has not been under investigation by the CFIUS.

The orders were issued under the International Emergency Economic Powers Act (PDF), which allows the executive to issue orders regulating international commerce “to deal with any unusual and extraordinary threat.”

Because the orders are so vague, it’s hard to tell if they are justified under that legal basis. However the details may shake out, though, it is all but guaranteed that any attempt at enforcement will face immediate legal challenges.

“We are shocked by the recent executive order,” TikTok said in a statement. “For nearly a year, we have sought to engage with the US government in good faith,” the company added. “There has been, and continues to be, no due process or adherence to the law... This executive order risks undermining global businesses’ trust in the United States’ commitment to the rule of law.

“We will pursue all remedies available to us in order to ensure that the rule of law is not discarded and that our company and our users are treated fairly—if not by the Administration, then by the US courts.”

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