

Trump is giving TikTok another ban extension

For the third time, President Donald Trump will extend the deadline for TikTok to spin out from its Chinese parent company or face a US ban. White House Press Secretary Karoline Leavitt confirmed in a statement Tuesday that Trump will sign an executive order this week extending the deadline another 90 days, landing the new deadline in mid-September.

The Trump administration will spend the next 90 days “working to ensure this deal is closed so that the American people can continue to use TikTok with the assurance that their data is safe and secure,” Leavitt said.

The extension, first signed on January 20th, theoretically offers legal cover for TikTok’s US service providers who are subject to the *Protecting Americans from Foreign Adversary Controlled Applications Act* from the hundreds of billions in penalties they could face for keeping the app online and in US app stores. But that legal cover was already shaky given that Trump’s extensions are not codified into the law, which was passed overwhelmingly by a bipartisan vote in Congress, and upheld as constitutional by the Supreme Court.

As *The Verge* previously reported, ByteDance and an Oracle-led coalition had nearly hammered out a deal in April, but Trump’s tariffs abruptly blew up the tentative agreement. While trade tensions between the US and China have simmered down, there’s been no recent news about resurrecting that deal or another one. Even when a sale seemed likely, it was unclear whether China would allow ByteDance to sell the valuable algorithm that powers TikTok’s video recommendations.

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Several lawmakers, including those who’ve criticized a divest-or-ban law for TikTok and ByteDance, have warned that Trump’s repeated extensions are untenable and illegal. After Trump’s last extension in April, Senate Intelligence Committee Vice Chair Mark Warner (D-VA) told *The Verge* the move was “against the law” and said “the whole thing is a sham if the algorithm doesn’t move from out of Beijing’s hands.”

Even before the second extension, Sens. Ed Markey (D-MA), Chris Van Hollen (D-MD), and Cory Booker (D-NJ), who oppose a ban of TikTok, wrote Trump that it would be “unacceptable and unworkable for your Administration to continue ignoring the requirements in the law.” They warned, “any further extensions of the TikTok deadline will require Oracle, Apple, Google, and other companies to continue risking ruinous legal liability, a difficult decision to justify in perpetuity.”

That’s because TikTok service providers in the US can be fined for facilitating access to the app after the ban deadline, and Trump’s extensions fall outside of the mechanisms allowed for in the law. So far, however, these companies appear to be relying on assurances from the administration that they won’t be sued for keeping TikTok online, although it reportedly took a letter from the US attorney general herself to assuage Apple and Google’s concerns.

A court could evaluate whether Trump’s actions are legal, but only if somebody sues to stop the extension – and so far, nobody has. Earlier this month, though, a Google shareholder filed a lawsuit against the company for allegedly failing to share internal records about its decision to flout the law under the Justice Department’s assurances. The same shareholder had already filed suit against the DOJ for allegedly failing to share information about its decision not to enforce the law against Apple and Google.

While members of Trump's party generally haven't gone so far as to call his extensions illegal, a dozen House Republicans said in a statement in April that "any resolution must ensure that U.S. law is followed, and that the Chinese Communist Party does not have access to American user data or the ability to manipulate the content consumed by Americans." Sen. Josh Hawley (R-MO) told reporters that month that Trump "ought to enforce the statute and ban TikTok. This middle way, I don't think is viable."

But it's not clear what would prevent Trump from approving indefinite extensions or a deal that doesn't meet the letter of the law. As Hawley acknowledged while speaking to reporters in April, "Congress, we don't have an enforcement arm of our own."

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