

**Congress of the United States**  
**Washington, DC 20515**

August 4<sup>th</sup>, 2022

The Honorable Gina Raimondo  
U.S. Department of Commerce  
1401 Constitution Ave NW  
Washington, DC 20230

Dear Secretary Raimondo,

We are writing to express grave concern over Department of Commerce's lack of enforcement of the Interim Final Rule on Securing the Information and Communications Technology and Services (ICTS) Supply Chain. Certain Chinese information and communications technology providers continue to expand in the US, or their equipment remains in place in the US, which potentially allows the government of the People's Republic of China (PRC) to access US persons' data or disrupt the communication of our defense infrastructure, posing a national security risk to the United States.

Former President Trump recognized the national security threat posed by Chinese social media and Internet companies, such as TikTok, WeChat, Alipay and Tencent QQ among others, and sought to ban some of these companies or prohibit transactions with them through Executive Order 13942 (prohibiting TikTok), Executive Order 13943 (prohibiting WeChat) and Executive Order 13971 (prohibiting transactions involving certain Chinese apps, such as Alipay) issued in August 2020 and January 2021 under the authority of Executive Order 13873 ("Securing the Information and Communications Technology and Services Supply Chain").

In June 2021, President Biden issued the Executive Order 14034 ("Protecting Americans' Sensitive Data from Foreign Adversaries"), which revoked President Trump's Executive Order 13942, Executive Order 13943 and Executive Order 13971 due to legal challenges against the implementation of these Executive Orders. However, President Biden's Executive Order 14034 does reaffirm the principles of President Trump's Executive Order 13873. It acknowledges the risks posed by the aforementioned Chinese entities and requires broader review of national security threat of US persons' data being exposed through such apps.

Unfortunately, based on publicly available information, nineteen months into the Biden administration, the Department of Commerce has done little towards the enforcement of the ICTS rule other than subpoenaing some Chinese companies in March 2021.

The need for urgently enforcing the ICTS rule came to the fore again in recent weeks as disturbing reports about Chinese companies TikTok and Huawei have come to light. BuzzFeed

published a report on June 17 that leaked audio from social media company TikTok's internal meetings show US user data have been repeatedly accessed from China.<sup>1</sup>

A recent exposé on TikTok by an Australian journalist confirms the BuzzFeed report. According to the exposé, TikTok engages in alarming and excessive data collection, including checking device location hourly, constantly requesting access to contacts even if the user originally denies the request and mapping a device's running apps and all installed apps. The exposé also found that the TikTok app has a server connection to mainland China, which is run by BaishanCloud, a cloud and cyber security company in Guizhou, China.<sup>2</sup> Huo Tao, BaishanCloud's CEO and Chairman of the Board, is a Chinese Communist Party member and a deputy to China National People's Congress who plays an active role in China's cybersecurity legislation.<sup>3</sup> PRC national security and data security laws apply extra-territorially to all Chinese companies and their overseas subsidiaries. This means that BaishanCloud and TikTok would have to make whatever data they collect and process available to the PRC government.

American cybersecurity experts have since renewed their call for banning TikTok.<sup>4</sup> Indeed, it is puzzling why rather than banning TikTok, or taking any action on TikTok to protect American user data, the Department of Commerce is still allowing TikTok to expand in the United States at an alarming rate! According to Statista, the number of US users of TikTok jumped from 66.5 million in 2020 to 78.7 million in 2021. TikTok is projected to have an 8% year to year user increase and will reach 84.9 million in 2022 and 89.7 million in 2023.<sup>5</sup>

While the Biden administration does nothing to prevent Chinese entities from accessing American persons' data, the PRC government is taking active measures to prevent Chinese user data from being sent outside of China. Last week, China's cybersecurity authorities fined DiDi, a ride-hailing company, \$1.2 billion, citing DiDi's violating laws regarding data security and protection of personal information.<sup>6</sup>

TikTok is only one example of the Department of Commerce inaction in enforcing the ICTS rule. A few days ago, CNN reported that the FBI believes that equipment manufactured by Huawei used in rural Midwest could disrupt US nuclear arsenal communications. Yet the Department of Commerce probe that could force US telecom carriers to expunge Huawei equipment is proceeding at a snail's pace.<sup>7</sup>

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<sup>1</sup> <https://www.buzzfeednews.com/article/emilybakerwhite/tiktok-tapes-us-user-data-china-bytedance-access>

<sup>2</sup> <https://www.afr.com/policy/foreign-affairs/tiktok-s-alarming-excessive-data-collection-revealed-20220714-p5b1mz>

<sup>3</sup> <http://static.sse.com.cn/stock/information/c/201904/083ad456572a44e5905b889c2c06c477.pdf> and [https://www.guizhou.gov.cn/ztzl/2022nqglh/gzdb/202203/t20220307\\_72847340.html](https://www.guizhou.gov.cn/ztzl/2022nqglh/gzdb/202203/t20220307_72847340.html)

<sup>4</sup> <https://www.wsj.com/articles/on-tiktok-its-all-fun-and-games-until-beijing-wants-your-info-china-ccp-national-security-app-store-apple-google-information-data-11658347613> and [https://current.thedispatch.com/p/ban-tiktok-now?utm\\_source=substack&utm\\_medium=email](https://current.thedispatch.com/p/ban-tiktok-now?utm_source=substack&utm_medium=email)

<sup>5</sup> <https://www.statista.com/statistics/1100836/number-of-us-tiktok-users/>

<sup>6</sup> <https://www.washingtonpost.com/world/2022/07/21/china-didi-fine-data-security/>

<sup>7</sup> <https://www.cnn.com/2022/07/23/politics/fbi-investigation-huawei-china-defense-department-communications-nuclear/index.html>

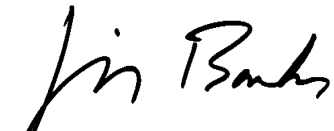
The authorities laid out in President Trump's Executive Order 13873 and President Biden's Executive Order 14034 give the Department of Commerce ample tools to enforce the ICTS rule to protect both the sensitive data of American citizens and the communications technology supply chain from the threats associated with Chinese companies such as TikTok and Huawei.

We would like you to respond to the following questions by August 19<sup>th</sup> at 5:00 PM:

- (1) Does the Department of Commerce have all the legal authority it needs to protect American sensitive data from their exposure to the PRC government?
- (2) Does the Department of Commerce find that the conduct of Chinese companies such as TikTok, Huawei, Tencent and BGI Group poses risks or threat to US national security?
- (3) Have you, in the capacity of the Secretary of Commerce, provided a report within 120 days after the date of Executive Order 14034 (as required by the Executive Order) to the Assistant to the President and National Security Advisor with recommendations to protect against harm from the unrestricted sale of, transfer of, or access to United States persons' sensitive data and harm from access to large data repositories by persons owned or controlled by, or subject to the jurisdiction or direction of, a foreign adversary, and the People's Republic of China in particular? If you have not, please explain the reasons.
- (4) Have you, in the capacity of the Secretary of Commerce, provided a report within 180 days after the date of Executive Order 14034 (as required by the Executive Order) to the Assistant to the President and National Security Advisor recommending additional executive and legislative actions to address the risk associated with connected software applications that are designed, developed, manufactured, or supplied by persons owned or controlled by, or subject to the jurisdiction or direction of, a foreign adversary, and the People's Republic of China in particular? If you have not, please explain the reasons.

We appreciate your attention and look forward to hearing from you soon.

Sincerely,



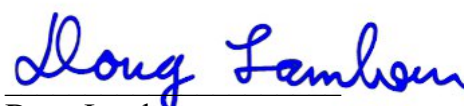
Jim Banks  
Member of Congress



Michael Waltz  
Member of Congress



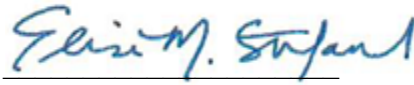
W. Gregory Steube  
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Doug Lamborn  
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Joe Wilson  
Member of Congress



Member of Congress  
Elise Stefanik



Robert J. Wittman  
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Steve Chabot  
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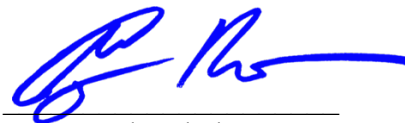
Virginia Foxx  
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Carlos Gimenez  
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Randy Weber  
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Guy Reschenthaler  
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Ken Buck  
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Pat Fallon  
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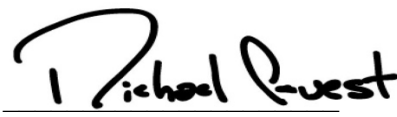
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Dan Crenshaw  
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