

# TikTok gets reprieve as judge halts Trump download ban

September 28 2020, by Rob Lever

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A US judge allowed TikTok to remain available to Americans, giving the popular app a reprieve from a download ban ordered by the Trump administration on national security grounds

TikTok won a last-minute reprieve late Sunday as a US federal judge halted enforcement of a politically charged ban ordered by the Trump

administration on downloads of the popular video app, hours before it was set to take effect.

District Judge Carl Nichols issued a temporary injunction at the request of TikTok, which the White House has called a national security threat stemming from its Chinese parent firm's links to the Beijing government.

The opinion was sealed, so no reason for the decision was released in a brief order by the court in Washington. The judge may unseal portions of the order after consulting with lawyers from both sides.

The Trump administration order had sought to ban new downloads of the app from midnight (0400 GMT Monday) but would allow use of TikTok until November 12, when all usage would be blocked. The judge denied TikTok's request to suspend the November 12 ban.

The decision represents a temporary win for TikTok, which has 100 million US users. But the court has yet to consider the merits of the legal arguments on whether the social platform should remain available to Americans.

TikTok has argued that even a temporary ban would be devastating and cause the company irreparable harm by stunting its growth and hurting its commercial reputation.

"We're pleased that the court agreed with our legal arguments and issued an injunction," TikTok said in a statement.

"We will continue defending our rights for the benefit of our community and employees."

For the injunction, Nichols heard arguments on the free-speech and

national security implications of the Trump ban on the Chinese-owned app in a rare Sunday telephone hearing.

TikTok lawyer John Hall said a ban would be "punitive" and close off a public forum used by tens of millions of Americans.

In a written brief filed ahead of the hearing, TikTok lawyers said the ban was "arbitrary and capricious" and "would undermine data security" by blocking updates and fixes to the app.

The company also said the ban was unnecessary because negotiations were already underway to restructure the ownership of TikTok to address national security issues raised by the administration.

Government lawyers argued the president has a right to take national security actions, and said the ban was needed because of TikTok's links to the Chinese government through its parent firm ByteDance.

A government brief called ByteDance "a mouthpiece" for the Chinese Communist Party and said it was "committed to promoting the CCP's agenda and messaging."



The US administration argued that TikTok poses a national security risk because of links of its parent firm ByteDance to the Beijing government

After the judge's order, the Commerce Department said in a statement it would comply with the injunction but "intends to vigorously defend the (executive order)... from legal challenges."

University of Richmond law school professor Carl Tobias called Sunday's order "a pragmatic splitting of the baby for the short term, to give a little time for them to resolve the disputes and come to a resolution."

Tobias said an appeal is possible but that the legal teams may choose to "try to work out a resolution to the broader legal clash" with the judge.

## Implications for internet

An amicus brief filed by Netchoice, a trade group which includes Google, Facebook and Twitter, said a ban could have important implications for the global internet.

"The government's actions are unprecedented in scope," the group said in its filing.

A ban would "also create a dangerous precedent" for the open internet, the brief said.

"The prohibition on any use of TikTok code by US developers for any purpose is effectively a ban on the building blocks of digital free expression."

The trade group said a TikTok ban may be cited by China or other countries "as justification for banning or restricting the activities of US internet businesses, including US-based social media platforms."

Earlier this month, Trump cited national security concerns and issued orders to ban both TikTok and the popular Chinese app WeChat, which has been put on hold in a separate court case in California.

But the TikTok order stops short of a full ban until November 12, giving parent firm ByteDance time to conclude a deal to transfer ownership of the app.

A tentative deal unveiled last weekend would make Silicon Valley giant Oracle the technology partner for TikTok and a stakeholder in a new entity to be known as TikTok Global.

TikTok said Sunday it would "maintain our ongoing dialogue with the

government" on the plan which got a preliminary approval last weekend from President Donald Trump.

It was unclear if the deal would be approved by Beijing, where some consider the US move an unjustified appropriation of Chinese technology.

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