

TikTok could get a lifeline from Big Tech as a US ban looms

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U.S. tech companies are pushing to narrow the scope of legislation that

could ban TikTok in the U.S., creating new obstacles as the Biden administration seeks to confront China's influence.

The Information Technology Industry Council, which represents companies including International Business Machines Corp., Microsoft Corp. and Apple Inc., is among groups lobbying to narrow the legislation, according to people familiar with those conversations who asked not to be named discussing the politically sensitive issue. Companies that make both hardware and software are worried they could become ensnared by a Senate bill that's been gaining momentum and is aimed at TikTok, the Chinese-owned video app, the people said.

The fierceness of the opposition may close down an opportunity for the Biden administration to extricate itself from a long-stalled national security review of the popular app with the goal of walling off U.S. data from potential Chinese access.

Earlier proposals to ban TikTok by name because of its Chinese ownership created the potential of a legal challenge over singling out a particular company. Instead, the Senate bill offered last month by Democrat Mark Warner of Virginia and John Thune of South Dakota would empower the Commerce secretary to evaluate national security risks and potentially ban any technology owned or operated by an adversarial nation such as China or Russia. It won an enthusiastic endorsement from the Biden administration.

Warner and Thune describe their bill as a "rules-based approach" that would put a new system in place to address threats not just from TikTok, but from future technologies as well.

"Policy is stronger if it's not with respect to a single company, because today you worry about TikTok, tomorrow it will be another company," Commerce Secretary Gina Raimondo told Bloomberg News Tuesday.

"We need secure information communications technology networks, we need to protect America's data and privacy. And I look forward to working with Congress in a bipartisan way to do that."

Although that approach has helped the bill win bipartisan support, it has some [tech companies](#) warning that it would give the government sweeping new regulatory power.

Tech executives, who declined to speak on the record, said they're concerned the measure could expose their companies to national security reviews over even a minor piece of hardware or a line of code if the bill were to become law because most of their systems include some Chinese technology.

The bill as currently written "would be a significant expansion" of the Commerce secretary's authority, according to Bill Reinsch, the Scholl Chair in International Business at the Center for Strategic and International Studies.

"It is basically an argument that security should trump economics and normal rules of trade and normal rules of doing business," said Reinsch, who was the Commerce Department's under secretary for export administration during the Clinton administration. "And if I were a high-tech company, I'd be very worried about that."

Early momentum

The legislation by Warner and Thune quickly gained momentum after it was introduced last month, drawing a strong roster of bipartisan cosponsors and riding the wave of attention that followed the House hearing last month where lawmakers took turns tearing into TikTok Chief Executive Officer Shou Chew. It currently has 25 co-sponsors—a fourth of the Senate.

Now lobbyists across the industry, including cryptocurrency firms, cloud providers and hardware makers, are pushing to narrow the legislation's language. The growing opposition lays bare the tricky politics for any measure in this Congress that needs to pass a Democratic-led Senate and a Republican-led House to become law.

TikTok has been lobbying hard against the bill on different grounds, arguing that Congress should take a step back and let the existing national security review run its course. The company, owned by Beijing-based ByteDance Ltd., has denied that China has access to U.S. user data and has argued that the platform is an important avenue for free speech, with more than 150 million U.S. users.

Chinese technology

Even with U.S. companies across the economy trying to shift production away from China, the world's second-largest economy is still the leading manufacturer of crucial hardware for many devices. Roughly half of key components for servers, storage and networking gear come from China, according to Bloomberg Intelligence. The majority of electronics manufacturers rely on Chinese technology.

The bill includes specific categories of national security risk that could trigger a review—provisions that would prevent the legislation from being misused, according to Warner spokesperson Rachel Cohen.

The Commerce secretary "would be strictly required to focus on foreign businesses that pose significant and systemic risks to our national security, such as threats to our critical infrastructure and the integrity of our elections process," Cohen said.

Others aren't convinced. The Electronic Frontier Foundation, a digital civil liberties nonprofit, said the measure "would open the door to wide-

ranging government bans on hardware or software from foreign countries with no explanations needed, little transparency, limited challenges via litigation and limited congressional oversight."

Government surveillance

House Republicans have voiced strong opposition to the approach taken by the Warner-Thune bill, saying that it would amount to a vast expansion of government power. This has produced another unlikely alliance: libertarian Republicans and progressive Democrats who have worked together previously to oppose government surveillance.

Republican Rep. Warren Davidson of Ohio cited his past cooperation with Democrat Pramila Jayapal of Washington to limit government surveillance programs intended to combat terrorism as the type of coalition that could oppose the Warner-Thune measure. He said the test for lawmakers supporting this approach should be to imagine such broad power in the hands of a president they disagree with.

"No executive branch agency can be permitted to even start down this path," Davidson said in an interview.

Some lawmakers of both parties—from New York's Democratic Rep. Alexandria Ocasio-Cortez to Kentucky's Republican Sen. Rand Paul—have said a better approach to the challenge posed by TikTok would be to pass comprehensive privacy legislation that could curtail data collection by any online offering, including Meta Platforms Inc.'s Facebook and Alphabet Inc.'s Google.

Those concerns have been amplified on conservative news channels, including by Fox News host Tucker Carlson.

Thune has responded to this criticism saying his bill "prepares for the

threats of the future." He said it would give President Joe Biden more solid legal standing to take the same steps as former President Donald Trump, who tried to ban TikTok in 2020, only to have the move overturned in court.

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