Is Time Really Up for TikTok? – Details from the House Committee Hearing with TikTok CEO Shou Zi Chew

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Last week, in its most high-profile effort yet to focus attention on data privacy and security, the House Committee on Energy & Commerce held a hearing with TikTok's CEO Shou Zi Chew. The full-Committee hearing was high drama, with sharp statements and accusations about TikTok's connections to the Chinese government, wide attendance by Committee members, and extensive press coverage during the hearing and afterwards. Some members (notably Chairwoman Cathy McMorris Rodgers) called for TikTok to be banned from the U.S., while others asked pointed questions without committing to support a ban. Members also used the opportunity to push for federal privacy legislation (and specifically the bipartisan ADPPA), which they said would help to address the dangers posed by Big Tech companies like TikTok.

Overall, the hearing did a far better job of illuminating members' concerns than in gathering information. Many questions were too broad, complex, or accusatory to be answered in a "yes" or "no" fashion (as frequently requested by Committee members). And at times, Chew was simply evasive. Nevertheless, the hearing highlighted, once again, bipartisan concerns surrounding TikTok, national security, children's safety, and privacy.

As the debate about TikTok continues, we wanted to share more details about what happened:

First up, opening remarks from Chairwoman Rodgers (R-WA) and Ranking Member Frank Pallone (D-NJ)

Rep. Rodgers kicked off the five+ hour hearing by discussing the threat TikTok poses to national security, and calling for the app to be banned in the U.S. She said that TikTok answers to the Chinese Communist Party (CCP) through its parent company ByteDance, spying on Americans (especially journalists) through collection and use of their data. It also manipulates its users (for example, censoring information and erasing events China wants the world to forget) and encourages harmful behavior among children by promoting dangerous content in its "For You" recommendations. Finally, she noted that TikTok has 150 million American users and emphasized the urgency with which Congress needs to act, both on TikTok and in passing the ADPPA.

Rep. Pallone said that Big Tech, including TikTok, has become a super-spreader of danger. It collects more data than it needs and sells it to generate billions of dollars in revenue. Like Rodgers, Pallone emphasized that Congress cannot wait any longer to pass federal privacy legislation. While there are benefits to TikTok, he said he is not sure they outweigh the risks to Americans – risk that are exacerbated by TikTok's potential ties to the CCP. Pallone further expressed concern that

addictive algorithms cause emotional distress, especially for children who are particularly vulnerable.

Next, Statement from TikTok CEO Chew

Chew used his testimony to showcase TikTok as a place where people can be creative and where businesses (especially small ones) can fuel their growth. He also argued that TikTok (together with ByteDance) is a global company that is not owned or controlled by the CCP. Indeed, he said that TikTok is not even available in mainland China and is headquartered in California and Singapore.

Chew made four commitments during the hearing:

1. TikTok will keep safety, particularly for teens, a top priority;

2. TikTok will implement Project Texas, a plan to store all U.S. user data in the U.S. and firewall it from unwanted foreign access;

3. TikTok will remain a place for free expression, not manipulated by any government; and

4. TikTok will be transparent and will allow third-party monitoring to ensure accountability for its commitments.

Committee Members Questions by Topic

- ByteDance

Many representatives, including **Chairwoman Rodgers**, probed the relationship between ByteDance, the parent company, and TikTok. They asked Chew whether he is in regular contact with ByteDance, including its CEO and legal team. (He is.) **Rep. Burgess (R-TX)** asked whether ByteDance's legal team helped Chew prepare for the hearing, to which Chew responded that his phone was "full of well wishes." (He later affirmed their assistance to **Rep. Griffith (R-VA)**.) Some members also asked about the political affiliations of ByteDance employees, which Chew claimed not to know, and how extensive the Chinese government's control is over ByteDance. Still others asked whether the Chinese government would approve a sale of TikTok, to which Chew responded that he could not answer hypotheticals. (China has since stated that it would oppose any forced sale). Many representatives also asked Chew about TikTok's finances and Chew's own financial connections to ByteDance. He generally refused to answer.

- Connection to the Chinese Government

A common theme among members was censorship. Many expressed concern over the CCP's ability to erase content regarding certain events – specifically, videos on China's human rights violations, its treatment of the Uyghur population, and even the Tiananmen Square massacre. Several also pointed to reports that a TikTok employee stated "everything [i.e., data] is seen in China." Chew said he was unaware of the statement, and disagreed with it. **Rep. Johnson (R-OH)** asked whether the CCP could gain access to U.S. user data through the source code or if TikTok had the capacity to change the source code. Chew used one of his prepared (and often repeated) answers, explaining that the source code is a global collaborative effort, an answer that did not respond to the question.

- Data Protection

Another hot topic was whether and what types of data TikTok collects and sells. Some members, such as **Rep. Tonko (D-NY)**, raised concerns about the collection of sensitive data, such as health and geolocation information. **Rep. Joyce (R-PA)** discussed the tracking of keystrokes. A handful of

members, such as **Rep. Dunn (R-FL)**, equated TikTok's data collection with the CCP's "spying" on Americans, a characterization that Chew rejected. Others asked Chew to commit to refraining from selling data at all. Chew often answered that TikTok does not collect any more data than other companies. **Rep. Schakowsky (D-IL)** explained that that is not a good standard.

In addition, **Rep. Pallone** asked Chew to commit to various requirements in the ADPPA and when Chew demurred, cited this as evidence of TikTok's ill-intent as to privacy. **Rep. Obernolte (R-CA)** (a former video game developer) used his time (and time yielded to him by other members) to ask questions about the software code, where the programmers are located, and how easily the code could be compromised, even after Project Texas.

- Project Texas

Chew evaded many questions about what is happening with U.S. users' data now and relied on Project Texas to explain what will happen in the future. Members stated that this plan is not enough. **Rep. Pallone** and others, such as **Rep. Fulcher (R-ID)**, explained that they believe the CCP would or could still control and influence what TikTok does. **Rep. Eshoo (D-CA)** emphasized her continuing concerns about what data the CCP or TikTok employees in China may have already, with **Rep. Hudson (R-NC)** expressing particular concern about TikTok tracking the location of military families.

- Targeted Advertising

When asked by **Rep. Castor (D-FL)** and others whether TikTok would prohibit targeted marketing to people under the age of 17, Chew responded (as he did to many other questions) that he would get back to the committee.

- Harmful Content and Misinformation

In a particularly notable moment, **Rep. Cammack (R-FL)** played a video depicting gun violence and death threats against Chairwoman Rodgers. The video had been up on TikTok for 41 days and had yet to be removed (although it was finally taken down after the hearing), highlighting TikTok's inability to effectively monitor harmful content. **Rep. Bilirakis (R-FL)** also showed a video displaying harmful "challenges" that go viral, stating that these are threats to minors that TikTok can't or doesn't control.

Rep. DeGette (**D-CO**) raised concerns about people looking for information on topics such as abortion, and finding harmful, misinformation. **Rep. Veasey (D-TX)** cited election misinformation published on TikTok. Chew responded that TikTok invests a significant amount to try to limit these harmful or incorrect results. Others, such as **Rep. Cardenas (D-CA)**, **Rep. Barragán (D-CA)**, and **Rep. Ruiz (D-CA),** sought information regarding content control for TikTok's Spanish speaking audience, and asked whether, if TikTok can't control harmful content in English, how will it be able to monitor and remove such content in Spanish. Chew said he would have to get back to them.

- Children

TikTok's community guidelines and publication of harmful content directed at children came under fire a number of times. Members raised questions about TikTok being used as a platform for trafficking, fentanyl and drug purchases, and other harms such as the promotion of eating disorders and suicide. Chew explained that TikTok is not perfect, but that the code redirects certain search terms to resource pages – i.e., if you search "#drugs," it directs you to a drug information resource. **Rep. Craig (D-MN)** pointed out that a teen looking to buy drugs is likely too savvy to simply search "#drugs."

Another topic discussed was Section 230 immunity. **Rep. Latta (R-OH)** expressed concern that TikTok enjoys Section 230 immunity for the dangerous and deadly challenges that it promotes and pushes onto children's "For You" pages. Chew explained that this is an industry problem (another repeated answer that appeared to frustrate members). Chew also said that freedom of speech is important, while also recognizing that companies need to raise the bar.

Chew explained that TikTok does not advertise to children under 13, who have an entirely different experience than adults on the app. He also touted the 60-minute time limit (which in practice is simply a notification to minors that they have been using the app for 60 minutes). Chew also explained that currently, TikTok employs "age-gating," where the user is asked how old they are in order to determine what settings apply to the account. **Rep. Kuster (D-NH)**, among others, pointed out how easy this is for children and teens to by-pass.

Rep. Sarbanes (D-MD) cited concerns about TikTok's effects on the brain, and specifically, the impact that algorithm recommendations have on the mental and behavioral health of kids and teens.

- Algorithmic Accountability

Several members, including **Rep. Matsui (D-CA)** and **Rep. Dingell (D-MI)** called for greater transparency in the use of algorithms, and suggested that TikTok submit reports regarding its algorithms to the FTC. Matsui also recommended that TikTok have special algorithmic policies for sensitive information, such as when the algorithm suggests information on depression or extreme sports. **Rep. Clarke (D-NY)** said that there should be transparency for algorithms to ensure they are not operating with bias or in a discriminatory manner. Although Chew had cited transparency as one of TikTok's commitments, his position on these specific issues was not clear.

Other members in attendance included Reps. Guthrie (R-KY), Walberg (R-MI), Carter (R-GA), Palmer (R-AL), Curtis (R-UT), Rochester (D-DE), Lesko (D-AZ), Soto (D-FL), Pence (R-IN), Schrier (D-WA), Trahan (D-MA), Armstrong (R-ND), Balderson (R-OH), Fletcher (R-TX), Weber (R-TX), Allen (R-GA), Peters (D-CA), Pfluger (R-TX), Harshbarger (R-TN), Miller-Meeks (R-IA), Duncan (R-SC), and Crenshaw (R-TX).

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By all accounts, Chew failed to assuage members' concerns about the TikTok (and is likely still recovering from his five+-hour drubbing). The question now is what will Congress actually do? Legislative proposals in the House and Senate take different approaches, ranging from forcing ByteDance to sell the TikTok to establishing a process for evaluating whether a sale or a ban in the U.S. is needed. Another question is whether concerns about TikTok could help light a fire under perennially-stalled federal privacy legislation. Stay tuned as we continue to track these and other developments related to privacy.