

# U.S. Government Bans TikTok and WeChat Downloads Beginning Sunday

September 18, 2020

## Post Update:

Over the weekend, the WeChat and TikTok bans were temporarily suspended. On Saturday, the Commerce Department [delayed](#) implementation of the TikTok ban until September 28, 2020 after it was announced that Oracle would acquire TikTok's U.S. operations. On Sunday, a federal court separately issued a preliminary [injunction](#) against the implementation of the WeChat ban in response to a suit filed by a group of WeChat users who argued that the ban on WeChat violated their right to free speech.

## Original Post:

Today, the U.S. Department of Commerce [announced](#) new prohibitions on certain transactions involving the WeChat and TikTok mobile applications pursuant to two Executive Orders issued [last month](#). The new restrictions, spelled out in Federal Register notices available [here](#) and [here](#), restrict U.S. companies from providing certain services to Tencent and ByteDance that support the continued distribution and operation of the WeChat and TikTok mobile applications in the United States.

As a result, beginning on September 20, users in the United States will likely be unable to download the applications from app stores and application updates will be unavailable. Importantly, the new restrictions do not apply to the use of the mobile applications outside of the United States, which should be a relief to the many U.S. companies whose overseas operations use WeChat to process payments and connect with customers in China and elsewhere. In addition, the new rules generally do not prohibit the continued use of the apps by individual users in the United States who have already installed the programs on their mobile devices.

The following types of "business to business" transactions,[\[1\]](#) spelled out in the WeChat notice, are prohibited under the new rules:[\[2\]](#)

- "1. Any provision of services to distribute or maintain the WeChat mobile application, constituent code, or mobile application updates through an online mobile application store, or any online marketplace where mobile users within the land or maritime borders of the United States and its territories may download or update applications for use on their mobile devices;
2. Any provision of internet hosting services enabling the functioning or optimization of the WeChat mobile application, within the land and maritime borders of the United States and its territories;
3. Any provision of content delivery services enabling the functioning or optimization of the WeChat mobile application, within the land and maritime borders of the United States and its territories;

4. Any provision of directly contracted or arranged internet transit or peering services enabling the functioning or optimization of the WeChat mobile application, within the land and maritime borders of the United States and its territories;
5. Any provision of services through the WeChat mobile application for the purpose of transferring funds or processing payments to or from parties within the land or maritime borders of the United States and its territories;
6. Any utilization of the WeChat mobile application's constituent code, functions, or services in the functioning of software or services developed and/or accessible within the land and maritime borders of the United States and its territories."

Both notices also warn that the Commerce Department may prohibit additional types of transactions related to WeChat and TikTok in the future. The WeChat restrictions are effective on Sunday, September 20, 2020. Paragraph 1 of the TikTok prohibitions is also effective on September 20, with the remaining TikTok prohibitions coming into force on Nov. 12, 2020.

Pursuant to a series of exceptions, Commerce indicated that the following activities are not prohibited by the new rules:

1. Payment of wages, salaries, and benefit packages to employees or contractors;
2. The exchange between or among WeChat/TikTok mobile application users of personal or business information using the mobile applications (to include the transferring and receiving of funds via WeChat);
3. Activities related to mobile applications intended for distribution, installation or use outside of the United States by any person, including but not limited to any person subject to U.S. jurisdiction, and all ancillary activities, including activities performed by any U.S. person, which are ordinarily incident to, and necessary for, the distribution, installation, and use of mobile applications outside of the United States; or
4. The storing of WeChat/TikTok mobile application user data in the United States.

Please contact us if you have any questions about how these new rules impact your business, or your TikTok habit.

[1] "Transaction" is defined broadly to include any "acquisition, importation, transfer, installation, dealing in, or use of any information and communications technology or service."

[2] The prohibitions applicable to TikTok are very similar, but exclude paragraph 5, which is specific to WeChat's payment functionality.