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**DEPARTMENT OF COMMERCE**

**15 CFR Chapter VII**

**[Docket Number: 200917-0247]**

**RIN 0605-XD009**

**Identification of Prohibited Transactions to Implement Executive Order 13942 and Address the Threat Posed by TikTok and the National Emergency with Respect to the Information and Communications Technology and Services Supply Chain**

**AGENCY:** Office of the Secretary, U.S. Department of Commerce.

**ACTION:** Identification of prohibited transactions.

**SUMMARY:** Pursuant to Executive Order 13942, the Secretary of Commerce is publishing the list of prohibited transactions by any person, or with respect to any property, subject to the jurisdiction of the United States, with ByteDance Ltd. (a.k.a. Zìjié Tiàodòng), Beijing, China, or its subsidiaries, including TikTok Inc., in which any such company has any interest, to address the national emergency with respect to the information and communications technology and services supply chain declared in Executive Order 13873, May 15, 2019 (Securing the Information and Communications Technology and Services Supply Chain), and particularly to address the threat identified in Executive Order 13942 posed by mobile application TikTok.

**DATES:** Transactions identified in paragraph 1 below will be prohibited immediately upon the effective date of September 20, 2020; transactions identified in paragraphs 2, 3, 4, and 5 below will be prohibited beginning on November 12, 2020.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:**

In Executive Order 13873 of May 15, 2019 (Securing the Information and Communications Technology and Services Supply Chain), the President found that foreign adversaries are increasingly creating and exploiting vulnerabilities in information and communications technology and services (ICTS), which store and communicate vast amounts of sensitive information, facilitate the digital economy, and support critical infrastructure and vital emergency services, in order to commit malicious cyber-enabled actions, including economic and industrial espionage against the United States and its people. The President further found that the unrestricted acquisition or use in the United States of ICTS designed, developed, manufactured, or supplied by persons owned by, controlled by, or subject to the jurisdiction or direction of foreign adversaries augments the ability of foreign adversaries to create and exploit vulnerabilities in ICTS, with potentially catastrophic effects, and thereby constitutes an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and declared a national emergency with respect to this threat. The President directed that

additional steps are required to protect the security, integrity, and reliability of ICTS provided and used in the United States.

On August 6, 2020, in Executive Order 13942 (Addressing the Threat Posed by TikTok, and Taking Additional Steps To Address the National Emergency With Respect to the Information and Communications Technology and Services Supply Chain), the President further found that the spread in the United States of mobile applications developed and owned by companies in the People's Republic of China (China) continues to threaten the national security, foreign policy, and economy of the United States. The President directed that action must be taken to address the threat posed by the mobile application TikTok.

Pursuant to Executive Order 13942, any transaction by any person, or with respect to any property, subject to the jurisdiction of the United States, with ByteDance Ltd. (a.k.a. Zijie Tiàodòng), Beijing, China, or its subsidiaries, including TikTok Inc., in which any such company has any interest, as identified by the Secretary of Commerce (Secretary) within 45 days from the date of Executive Order 13942, shall be prohibited to the extent permitted under applicable law. This Identification of Prohibited Transactions implements that directive by the President.

### **Identifying Prohibited Transactions**

#### **Definitions**

*Content delivery service* means a service that copies, saves, and delivers content, for a fee, from geographically dispersed servers to end-users for the purposes of enabling faster delivery of content.

*Entity* means a government or instrumentality of such government, partnership, association, trust, joint venture, corporation, group, subgroup, or other organization, including an international organization.

*Information and communications technology or services* means any hardware, software, or other product or service primarily intended to fulfill or enable the function of information or data processing, storage, retrieval, or communication by electronic means, including transmission, storage, and display.

*Internet hosting service* means a service through which storage and computing resources are provided to an individual or organization for the accommodation and maintenance of one or more websites or Internet services. Services may include but are not limited to file hosting, domain name server hosting, cloud hosting, and virtual private server hosting.

*Internet transit service* means a service where a network operator provides connectivity, transport and routing for another network, enabling them to reach broader portions of the Internet. A transit provider's routers also announce to other networks that they can carry traffic to the network that has purchased transit.

*Mobile application* means a software application designed to run on a mobile device such as a phone, tablet, or watch.

*Mobile application store* means any online marketplace where users can download, or update, and install software applications to a mobile device.

*Peering* means a relationship between Internet service providers (ISP) where the parties directly interconnect to exchange Internet traffic, most often on a no-cost basis.

*Person* means an individual or entity.

*Subsidiary* means a company that is owned or controlled by a parent or holding company.

*Transaction* means any acquisition, importation, transfer, installation, dealing in, or use of any information and communications technology or service.

### **Identification of Prohibited Transactions**

Pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701, et seq, Executive Order 13873 (84 FR 22689, May 15, 2019), and as set forth and provided for in Executive Order 13942 (85 FR 48637, August 6, 2020), the Secretary has identified the following transactions that are prohibited, effective as of September 20, 2020:

Any transaction by any person, or with respect to any property, subject to the jurisdiction of the United States, with ByteDance Ltd. (a.k.a. Zijié Tiàodòng), Beijing, China, or its subsidiaries, including TikTok Inc., in which any such company has any interest, involving:

1. Any provision of services to distribute or maintain the TikTok mobile application, constituent code, or 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 TikTok mobile application within the land and maritime borders of the United States and its territories;

3. Any provision of content delivery network services enabling the functioning or optimization of the TikTok 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 TikTok mobile application within the land and maritime borders of the United States and its territories;
5. Any utilization of the TikTok 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; or
6. Any other transaction by any person, or with respect to any property, subject to the jurisdiction of the United States, with ByteDance Ltd., or its subsidiaries, including TikTok Inc., in which any such company has any interest, as may be identified at a future date under the authority delegated under Executive Order 13942.

While all of the transactions listed herein are prohibited beginning September 20, 2020, the Department of Commerce will implement these prohibitions as follows:

- (1) Transactions identified in paragraph 1 above will be prohibited immediately upon the effective date of September 20, 2020;
- (2) Prohibition of transactions identified in paragraphs 2, 3, 4, and 5 above is the subject of a second phase, beginning on November 12, 2020; and
- (3) Transactions may also be prohibited at a future date, as described in paragraph 6 above, to commence as set forth in the public identification of any such transactions.

The identified prohibitions herein only apply to the parties to business-to-business transactions, and apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to Executive Order 13942, and notwithstanding any contract entered into or any license or permit granted before the date of Executive Order 13942.

These identified prohibitions do not apply to:

- (1) Payment of wages, salaries, and benefit packages to employees or contractors;
- (2) The exchange between or among TikTok mobile application users of personal or business information using the TikTok mobile application;
- (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 TikTok mobile application user data in the United States.

Nothing in this Identification of Prohibited Transactions shall prohibit any transaction necessary to effectuate the divestment required by Order of August 14, 2020 (85 FR 51297) (Regarding the Acquisition of Musical.ly by ByteDance Ltd.). Any other transaction with ByteDance Ltd. or its subsidiaries is permitted under Executive Order 13942, as implemented by the Secretary, unless identified as prohibited or otherwise contrary to law.

## **AUTHORITY**

International Emergency Economic Powers Act, 50 U.S.C. 1701, *et seq.*; National Emergencies Act, 50 U.S.C. 1601 *et seq.*; Executive Order 13942, Addressing the Threat Posed by TikTok, August 6, 2020; Executive Order 13873, Securing the Information and Communications Technology and Services Supply Chain, May 15, 2019.

**Dated: September 17, 2020.**

This document of the Department of Commerce was signed on September 17, by Wilbur Ross, Secretary of Commerce. That document with the original signature and date is maintained by the Department of Commerce. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned Department of Commerce Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Commerce. This administrative process in no way alters the legal effect of this document upon publication in the Federal Register.

Signed in Washington, DC, on September 17, 2020.

Asha Mathew,

Federal Register Liaison Officer, U.S. Department of Commerce.

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