

United States Senate

March 24, 2025

The Honorable Donald Trump
President of the United States of America
The White House
1600 Pennsylvania Ave., NW
Washington, DC 20500

Dear President Trump,

We write to urge you to provide additional information on any efforts to keep TikTok online in the United States and to ensure that your Administration works with Congress on any potential resolutions to the TikTok ban. Although we continue to oppose the TikTok ban, it is unacceptable and unworkable for your Administration to continue ignoring the requirements in the law, as you did in January by extending the divestment deadline to April 5. With that April deadline approaching, TikTok's creators deserve a real solution — not more legal uncertainty. We urge you to work with Congress to ensure that TikTok remains online in the United States.

The language in the TikTok ban — formally known as the *Protecting Americans' Data from Foreign Adversaries Act* — necessitates additional work with Congress to ensure that TikTok remains online in the United States. Under the law, ByteDance had until January 19 to either divest TikTok or face a ban in the United States.¹ Neither you nor former President Joe Biden chose to trigger the 90-day extension of the deadline in the statute.² Instead, in an executive order, you directed the Department of Justice to not enforce the law for 75 days.³ This prescribed non-enforcement of the TikTok ban was not only unlawful but also raised serious questions about TikTok's future, as the law imposes liability — up to \$850 billion — on companies for facilitating TikTok's continued operations in the United States, such as Oracle for providing cloud computing services to TikTok and Apple and Google for distributing TikTok in their respective app stores.⁴ Moreover, the statute of limitations for violations of the Act is five years.⁵ As a result, even if Oracle, Apple, or Google were confident that your executive order would protect them from ruinous legal liability for violating the TikTok ban during the 75-day period, a future administration could reverse that decision. In other words, the effectiveness of your executive order rested on the risk tolerance of these companies.⁶

This dynamic was clear in January. Oracle was apparently willing to take on the legal risks by continuing to provide cloud services to TikTok.⁷ Apple and Google, however, initially came to a different decision and refused to reinstate TikTok in their app stores. But three weeks

¹ Protecting Americans' Data from Foreign Adversaries Act of 2024, 15 U.S.C. § 9901 (note).

² *Id.*

³ Exec. Order No. 14,166, 90 Fed. Reg. 8,611 (Jan. 30, 2025).

⁴ Protecting Americans' Data from Foreign Adversaries Act of 2024, 15 U.S.C. § 9901 (note).

⁵ *Id.*

⁶ See, e.g., Alan Z. Rozenshtein, *Trump's TikTok Executive Order and the Limits of Executive Non-Enforcement*, Lawfare (Jan. 21, 2025), <https://www.lawfaremedia.org/article/trump-s-tiktok-executive-order-and-the-limits-of-executive-non-enforcement>.

later, after receiving a formal letter from the U.S. Department of Justice expressing its commitment to not enforce the Act, the two companies reversed course and restored TikTok to their respective app stores.⁸ For the moment, then, TikTok remains online and available in app stores throughout the United States. This uncertainty is an outgrowth of the unlawful manner by which you extended the TikTok divestment deadline and demonstrates the difficulties with further unilateral executive efforts to circumvent the TikTok ban.

Although your unlawful executive order has maintained TikTok during the 75-day period, this strategy could become increasingly ineffective over time. To the extent that you continue trying to delay the divestment deadline through executive orders, any further extensions of the TikTok deadline will require Oracle, Apple, Google, and other companies to continue risking ruinous legal liability, a difficult decision to justify in perpetuity. On the other hand, if your Administration works to complete a deal with Oracle — under which Oracle would reportedly take a small stake in TikTok and provide certainty about the security of TikTok’s user data⁹ — such a deal would almost certainly not satisfy the Act’s requirements around a qualified divestiture.¹⁰ Even with the broad discretion granted to the president under the Act to determine whether a transaction constitutes a qualified divestiture, companies will still need to take a legal risk to keep TikTok online.¹¹ In other words, after April 5, TikTok will remain dependent on the risk tolerance of Oracle, Apple, Google, and other companies.

There is a better solution: Work with Congress. We have previously introduced legislation — the *Extend the TikTok Deadline Act*¹² — that would extend the TikTok deadline to October 16, 2025, but Senate Republicans blocked passage of our bill.¹³ If you need additional time to complete a deal, we urge you to direct Senate Republicans to pass our legislation and provide the companies with legal certainty to keep TikTok online and in the app stores over the next few months. If you intend to proceed with the reported Oracle deal, we urge you to work with Congress to propose modifications to the *Protecting Americans’ Data from Foreign Adversaries Act* to ensure that any Oracle deal prevents TikTok from going dark. Regardless of your approach, the path to saving TikTok should run through Capitol Hill.

Without any further action from Congress, the 170 million Americans that rely on TikTok will continue to face uncertainty about TikTok’s future. Creators will continue to fear that the platform could disappear at any moment. This situation is unfair and unworkable. We

⁷ See, e.g., Lauren Feiner, *TikTok’s service providers still risk billions in penalties for bringing it back online*, The Verge (Jan. 19, 2025), <https://www.theverge.com/2025/1/19/24347325/tiktok-service-providers-penalties-apple-google-oracle-trump>.

⁸ See, e.g., Sapna Maheshwari et al., *TikTok Returns to Apple and Google App Stores*, N.Y. Times (Feb. 13, 2025), <https://www.nytimes.com/2025/02/13/technology/tiktok-apple-google-app-stores.html>.

⁹ Dasha Burns et al., *White House seriously considering deal from Oracle to run TikTok*, Politico (March 16, 2025), <https://www.politico.com/news/2025/03/16/white-house-oracle-tiktok-00232302>.

¹⁰ Protecting Americans’ Data from Foreign Adversaries Act of 2024, 15 U.S.C. § 9901 (note).

¹¹ See Alan Z. Rozenshtein, *Can Trump Save TikTok?*, Lawfare (Nov. 12, 2024), <https://www.lawfaremedia.org/article/can-trump-save-tiktok>.

¹² Extend the TikTok Deadline Act, S. 103, 119th Cong. (2025).

¹³ Press Release, Senator Tom Cotton, Cotton Blocks Democrats’ Attempt to Extend TikTok Ban Deadline (Jan. 15, 2025), <https://www.cotton.senate.gov/news/speeches/icymi-cotton-objects-to-tiktok-ban-extension>.

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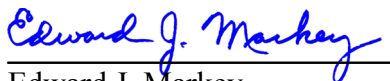
urge you to stand up for TikTok's users and use your immense influence over congressional Republicans to demand a long-term solution to the TikTok ban.

To further understand potential legislative action needed by April 5, we request that you respond in writing to the following questions by March 28, 2025.

1. Is your Administration considering further extending the TikTok divestment deadline by executive order? If so, please identify the statutory basis for such an extension.
2. Are news reports accurate that your Administration is considering a potential deal with Oracle under which Oracle would take a stake in TikTok and provide certainty about the security of TikTok's user data?
 - a. If so, please describe the details of this potential deal.
 - b. If so, please describe how this deal would satisfy the requirements in the *Protecting Americans' Data from Foreign Adversaries Act*.
3. Does your Administration believe that any further legislative action is necessary to ensure that TikTok remains online in the United States?
 - a. If not, please describe why not.
 - b. If so, please identify any needed legislative action.

Thank you for your prompt attention to this important issue.

Sincerely,



Edward J. Markey
United States Senator



Chris Van Hollen
United States Senator



Cory A. Booker
United States Senator