



DEPARTMENT OF COMMERCE

15 CFR Chapter VII

Docket Number: 201109-0297

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; Preliminary Injunction Order by a Federal District Court

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

ACTION: Notification of preliminary injunction.

SUMMARY: The U.S. Department of Commerce (“Department”) is issuing this document to inform the public of a preliminary injunction ordered by a Federal district court on October 30, 2020, preventing the implementation of specific Department actions.

DATES: The court order was effective October 30, 2020.

FOR FURTHER INFORMATION CONTACT: Kathy Smith, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-1859.

For media inquiries: Meghan Burris, Director, Office of Public Affairs, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-4883.

SUPPLEMENTARY INFORMATION: On September 24, 2020, the Department published the “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” (the “Identification”) in the Federal Register at 85 FR 60061. The Identification provided that the following transactions would be prohibited:

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.

Transactions identified in paragraph 1 above were to be prohibited at 11:59 p.m. eastern standard time on September 27, 2020; transactions identified in paragraphs 2, 3, 4, and 5 above were to be prohibited at 11:59 p.m. eastern standard time on November 12, 2020.

Preliminary Injunction

On September 18, 2020, Plaintiffs, who are three content creators using the TikTok mobile app, filed a lawsuit in the United States District Court for the Eastern District of Pennsylvania (*Douglas Marland et al. v. Trump et al.*, No. 20-cv-4597), seeking various relief, including a court order to prohibit the Department from implementing Executive Order 13942 or the identified prohibited transactions. Plaintiffs subsequently filed a motion for a preliminary injunction to pursue such relief, limited to the prohibited transactions in Paragraph 1. On September 26, 2020, the District Court denied the Plaintiffs' motion.

However, on October 30, 2020, the District Court issued an Order granting the Plaintiffs' renewed motion for a preliminary injunction. This Order enjoined the Department from enforcing the Identification and the prohibition on transactions identified in Paragraphs 1-6 above.

The Department is complying with the terms of this Order. Accordingly, this serves as NOTICE that the Secretary's prohibition of identified transactions pursuant to Executive Order 13942, related to TikTok, HAS BEEN ENJOINED, and WILL NOT GO INTO EFFECT, pending further legal developments.

Any further guidance and updates regarding the subject litigation will be posted on the Department website (www.commerce.gov) on an ongoing basis.

Dated: November 9, 2020.

This document of the Department of Commerce was signed on November 9, 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 November 12, 2020.

Asha Mathew,

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

[FR Doc. 2020-25360 Filed: 11/12/2020 4:15 pm; Publication Date: 11/17/2020]