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Attempt to ban Chinese technology results in more regulatory burdens

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When United States President Donald Trump issued executive orders threatening the ban of popular Chinese apps WeChat and TikTok, he set in motion a struggle over the fate of TikTok and its parent company, China-based ByteDance, that may have resulted in more regulations for companies doing business in China.

The orders, both released Aug. 6,^[1] stipulated bans for both apps. Neither ban has actually come to be, as ByteDance, Oracle Corp. and Walmart Inc. came to an agreement, and a federal judge blocked the ban on WeChat.

The proposed deal between ByteDance and U.S.-based companies also came under fire from Chinese state media, which declared the deal “dirty”^[2] and questioned whether the Chinese government should approve of the deal. That deal must also first be reviewed and approved by the Committee on Foreign Investment in the United States.^[3]

In regard to WeChat, federal judge Laurel Beeler of the Northern District of California ruled^[4] that the ban would be an infringement on the free speech rights of Chinese Americans and Chinese citizens living in America:

The government contends that an injunction would ‘frustrate and displace the President’s determination of how best to address threats to national security.’ This is an important point, and the threats that the government has identified generally are significant. But while the general evidence about the threat to national security related to China (regarding technology and mobile technology) is considerable, the specific evidence about WeChat is modest. Also, on this record, the regulation — which eliminates a channel of communication without any apparent substitutes — burdens substantially more speech than is necessary to further the government’s significant interest.

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