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## ByteDance: TikTok and the Trials of Going Viral

As Zhang Yiming ended the Zoom meeting, he could not help but feel dejected. After months of seemingly endless rounds of negotiation with the U.S. government and investors, his dream was still in jeopardy. The founder of Chinese technology firm ByteDance had aspired to build a tech start-up with global recognition and appeal. In TikTok, a short-form video-sharing social media platform, Zhang's ByteDance had found its crown jewel. With 850 million monthly users, TikTok had propelled the company behind it to become the most valuable start-up ever, worth an estimated \$180 billion in 2020.<sup>1</sup> However, just as Zhang's dream came within reach, distrust of Chinese companies, especially those in the technology sector, endangered all he had achieved.

With Chinese technology companies becoming global actors, foreign governments grew concerned that the Chinese government could use these firms as vehicles to surveil, influence, and, possibly, endanger their citizens. The United States government, led by the trade and China hawk administration of President Donald Trump, was especially assertive in slapping Chinese firms with restrictions. The Trump administration's most prominent target in this technology war with China was Huawei, the telecommunications firm on which Zhang had modeled ByteDance's globalization strategy.

It was no surprise, then, when ByteDance's TikTok landed on the Trump administration's hit list. Friction with the U.S. government began with the expansion of the mandate of the Committee on Foreign Investment in the United States (CFIUS) in 2018 to review and unwind transactions with foreign entities that dealt in critical technologies and sensitive data of American citizens. The year before CFIUS's scope increased, ByteDance had tried to expand TikTok's international presence in 2017 by buying Musical.ly, a Chinese company that developed an app similar to TikTok with millions of existing users in America and elsewhere outside China. After ByteDance was accused of censoring content on TikTok according to Chinese laws and regulations, CFIUS initiated a review of ByteDance's acquisition.

The real crisis started when President Trump personally intervened in the CFIUS review. TikTok users had organized on the platform to meddle with the reservation system for one of President Trump's reelection campaign rallies. Trump's deputies then used his anger to push through executive orders to force Zhang to either sell or shut down TikTok's U.S. operations.

ByteDance bought itself time in the United States by seeking to restructure TikTok with investment from American firms Oracle and Walmart and through a legal strategy that successfully won the

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company preliminary injunctions against Trump's orders. However, ByteDance was still searching for corporate and platform governance models that would appease investors, the U.S. government, and the Chinese government, while still allowing ByteDance significant control over TikTok. The fate of TikTok, the first viral global technology platform made in China, would set a precedent. As Zhang had looked to Huawei when developing his global strategy, other Chinese entrepreneurs would look to ByteDance. What should Zhang do to make ByteDance a model for globalization rather than a warning against it?

## Zhang Yiming: A Man of His Times

Born in 1983, Zhang Yiming was a child of China's reform era. He was raised by parents of modest means, a government worker and nurse, in the southeastern seaboard province of Fujian, home to one of the first four "special economic zones" (SEZs) in China, one of the first sites in the People's Republic of China to permit experimentation with market economics and foreign investment.<sup>2</sup> Zhang's father resigned from the local city science and technology commission to help set up an electronics processing factory in Dongguan, the "workshop of the world," exposing a young Zhang to emerging technology.<sup>3</sup> Coming of age on the frontier of this economic revolution, Zhang aimed to make the most of China's renewed integration into the global economy.

He enrolled in Tianjin's Nankai University in 2001, initially hoping to study biology but later transferring to electrical engineering and then to software engineering.<sup>4</sup> Reflecting on this choice, Zhang believed he was drawn to the creative possibilities of the subject, saying that "If you have an idea, you can go ahead and make it."<sup>5</sup> Outside of class, he read biographies, as many as he could find, which he credited with teaching him how to lead and achieve. Zhang recalled that "You see that a lot of great people led pretty nondescript lives when they were younger...Everyone starts off being an ordinary person."<sup>6</sup> The stories of American CEOs Steve Jobs and Jeff Bezos especially affected Zhang. He even hung a portrait of Bezos in ByteDance's corporate headquarters.

**Serial Entrepreneur** Zhang proved himself a dedicated entrepreneur. In college, he enjoyed "personal improvement tasks," such as repairing computers, building websites, and reading – activities he would later cite for improving his patience, knowledge, and friendship.<sup>7</sup> Upon graduation, he helped found three start-ups, Kuxun, Fanfou, and 99Fang, before building ByteDance.<sup>8</sup> Zhang took a hiatus from start-up culture to work at Microsoft's research center in Beijing, a legendary incubator for top technology talent in China, but left after only six months because of the "many rules and regulations" that, he believed, made it a stultifying work culture. As with many entrepreneurs, Zhang was also familiar with failure. He returned to Kuxun, a travel website, after his next venture, Fanfou, folded.<sup>9</sup> His first experience heading a start-up came when an investor approached him about spinning off Kuxun's real estate search division, which became 99Fang.

## Building ByteDance

ByteDance's story began with Steve Jobs and the release of Apple's iPhone in 2007. The name ByteDance is an English name derived from how Jobs and Apple married technology (byte) with liberal arts (dance).<sup>10</sup> With the launch of the iPhone, Zhang believed the arrival of a truly "smart" phone, which put the internet at a user's fingertips, would create a tidal wave in mobile technologies. This, Zhang felt, was his time to rise to the occasion, as the subjects of the biographies he read had "changed when in the midst of these huge waves."<sup>11</sup> Zhang recalled that "at the end of 2011, it was basically judged that the transmission medium for all information would change from paper-based media to mobile phones."<sup>12</sup> So, in 2012, at 29 years old, Zhang left 99Fang and founded ByteDance with the

vision of creating mobile-first platforms for the creation and consumption of information. ByteDance's first product was *Neihan Duanzi* (which roughly translates to "subtle jokes" in English), a simple app where users could share off-color jokes and memes. Zhang's more ambitious goal, however, was to challenge technology giant Baidu's monopoly on internet search in China, which he believed fell flat in serving users the most relevant information.<sup>13</sup> Five months after ByteDance's establishment, Zhang and his still small team released their response, *Jinri Toutiao* ("Today's Headlines" in English), known as *Toutiao*. *Toutiao* was a simple news aggregator in its first iteration, but Zhang pushed his team to develop recommendation technology that would present users personalized content automatically.<sup>14</sup>

**Attracting Users and Financing** Zhang's decision to place personalization at the heart of all ByteDance's platforms supercharged the company's growth. Users responded with enthusiasm to the algorithm-enabled experience. *Toutiao* had 700 million users in 2020.<sup>15</sup> The humor app *Neihan Duanzi* also attracted 200 million daily users at its height in 2017, before the Chinese government shut it down for posting "vulgar content."<sup>16</sup> ByteDance's rapidly growing userbase drew in significant new investors. At first, the company struggled to attract financing, receiving only US\$5 million in venture capital in July 2012.<sup>17</sup> However, just two years later, the success of ByteDance's platform model helped the company raise US\$100 million and garner a US\$400 million valuation from a group of investors led by Sequoia Capital China, which had initially passed on investing in ByteDance.<sup>18</sup>

The personalization engine in ByteDance's apps drove both user growth and advertisement revenue, the heart of the company's business model. ByteDance's algorithms not only taught its apps what content was most likely to capture users' attention but also learned which advertisements would be most relevant and engaging for them. As *Toutiao*'s userbase grew and the personalization engine was further refined, ad-based revenues from the app soared, climbing 400% from 2014 to 2015 and then by 433% from 2015 to 2016.<sup>19</sup> By 2017, analysts estimated ByteDance earned \$2.5 billion in revenue from *Toutiao*.<sup>20</sup> ByteDance's valuation rocketed upwards as well, soaring to US\$11 billion in April 2017 during a Series D funding round led again by Sequoia China before nearly doubling just four months later to US\$20 billion when the company raised US\$2 billion from the American private equity firm, General Atlantic.<sup>21</sup> Zhang's bet on personalizing information platforms for mobile devices had turned a start-up run out of an apartment into a financial juggernaut.

### *Creating TikTok*

While *Toutiao* had been designed with the China market in mind, *TikTok*, ByteDance's latest product, was Zhang's attempt to do what Chinese rivals Tencent, Baidu, and Alibaba had yet to manage: build an internet platform with global appeal. In September 2016, *A.me* was released, and quickly rebranded as "Douyin" (literally "vibrating voice" in English) to the China market only in order to begin building the platform. Its concept was to create a social network where producing and sharing short videos would be easy. Douyin borrowed elements from Western social media but fused them together uniquely. Content on Douyin combined the media-first approach of Instagram, the humor of ByteDance's own *Neihan Duanzi*, and the social commentary of Facebook and Twitter. Within a year, Douyin had 100 million users in China.<sup>22</sup> *TikTok* was launched as the international version of Douyin in 2017. As with *Toutiao*, *TikTok*'s core infrastructure was built upon ByteDance's personalization engine that applied what its coders had learned from *Toutiao* to recommend videos to *TikTok* users, focusing on figuring out which content caught and held their attention in order to choose what to show next.<sup>23</sup>

**Musical.ly Acquisition** With Douyin an overnight hit in China, Zhang determined that ByteDance move quickly to roll out a global strategy for *TikTok*. He remarked: "China is home to only one-fifth of Internet users globally. If we don't expand on a global scale, we are bound to lose to peers

eyeing the four-fifths. So, going global is a must.”<sup>24</sup> Flush with cash from its enormous funding rounds in 2017, ByteDance moved later that year to acquire a competing, short-form video app with a focus on lip-syncing. Musical.ly, with 200 million users and a bigger international footprint, was purchased for US\$1 billion.<sup>25</sup> Musical.ly was headquartered in Shanghai but had found its audience almost entirely outside of China, with 60 million in the United States and Europe at the time of acquisition.<sup>26</sup> Musical.ly also operated a U.S. office in Santa Monica.<sup>27</sup> In acquiring Musical.ly, ByteDance was not simply shouldering out a successful first mover, but it was also buying data about foreign markets with which ByteDance could train its algorithm to better understand user behavior outside China. At the time, Zhang viewed telecommunications firm Huawei as the example to emulate for Chinese companies with global ambitions. He believed Huawei’s efforts to “localize” its business operations in overseas markets, developing country-specific sales, implementation, and after-sales strategies, was critical to the success of its products internationally. ByteDance, Zhang hoped, could deliver “globalized products with localized content.”<sup>28</sup> With Musical.ly’s userbase and data in hand, TikTok aspired to be the realization of Zhang’s vision.

This strategy seemed to pay off for TikTok. In 2018, the year after the Musical.ly acquisition, TikTok was downloaded 655.6 million times, five-fold its userbase in the previous year.<sup>29</sup> In mid-2018, ByteDance formally merged Musical.ly’s platform with TikTok, unifying their userbases. Yet ByteDance kept Douyin and TikTok’s platforms separate, maintaining one app for China and one for the rest of the world. While the user experience was similar, a Douyin user could not view TikTok videos, nor vice versa. ByteDance also hosted all of its data centers for TikTok outside of China, with a major hub in Singapore and certain nations’ user data hosted within the country, such as in the United States.<sup>30</sup> These corporate contortions to ensure TikTok’s global growth was resilient seemed successful in the short-term. In 2019, TikTok’s revenue grew 500% over the previous year.<sup>31</sup>

**Censorship and Scrutiny** But not all was smooth sailing with TikTok’s global strategy. Along with TikTok’s popularity came growing scrutiny of ByteDance’s business practices. The company faced accusations that it censored TikTok videos critical of the Chinese Communist Party’s actions in Xinjiang and Hong Kong.<sup>32</sup> In 2020, a TikTok executive testified that the company had censored posts critical of China in the past but that this was no longer the company’s policy.<sup>33</sup> TikTok also faced criticism that its algorithm deprioritized or, in some cases, even censored videos posted by queer, disabled, and fat users. The company claimed it had done so, in some cases, to prevent cyberbullying or, in other cases, to conform with local content regulations.<sup>34</sup> Zhang’s carefully structured globalization strategy for TikTok was not enough to protect it from political turbulence overseas.

## TikTok’s Unraveling? The Political Risks of Global Ambitions

### *Confronting American Regulatory Power*

**CFIUS** TikTok’s global rise came just as the United States government had become deeply skeptical of Chinese technology companies and investments from China. The Committee on Foreign Investment in the United States could permit or deny deals from proceeding, and, while firms technically engaged with CFIUS voluntarily, it had the authority to initiate investigations itself and order foreign entities to divest themselves from a deal if a transaction was deemed detrimental to U.S. national security.<sup>35</sup> In summer 2018, CFIUS’s mandate expanded further under the Foreign Investment Risk Review Modernization Act (FIRRMA), which the U.S. Congress passed out of concern that CFIUS’s existing regulations were insufficient to review the challenges it believed Chinese investments in American technology posed to U.S. national security.<sup>36</sup>

FIRRMA granted CFIUS additional jurisdiction to review foreign transactions that involved real estate deals near U.S. national security facilities, investments in critical technologies and infrastructure, investments where a foreign government held a financial stake, deals that were designed to circumvent CFIUS, and—most relevant for ByteDance—transactions that gave foreign entities access to the data of American citizens.<sup>37</sup> When ByteDance acquired Musical.ly in 2017, it had not approached CFIUS.<sup>38</sup> At the time, CFIUS regulations did not include specific regulations about reviewing deals involving American data, and, while Musical.ly had both an American subsidiary and an American userbase, it was headquartered in China.<sup>39</sup> However, given CFIUS's ability to unwind preexisting deals, FIRRMA gave the committee the green light to investigate deals of the type ByteDance struck with Musical.ly.

In spring 2019, within the first year of FIRRMA's passing, CFIUS ordered Beijing Kunlun Tech Co Ltd to divest itself of Grindr, a gay dating app that it acquired in 2016, due to concerns that a Chinese owner could jeopardize the security of American users' data.<sup>40</sup> Pressure on CFIUS to investigate the ByteDance-Musical.ly deal followed soon after, with Senator Marco Rubio sending a letter to Treasury Secretary Steven Mnuchin, CFIUS chair, to probe the deal. To justify a review, Rubio drew on reports that TikTok had censored content critical of the Chinese government. He wrote that Chinese ownership of such apps allowed China to "advance their foreign policy and globally suppress freedom of speech, expression, and other freedoms that we as Americans so deeply cherish."<sup>41</sup> A month later, it was reported that CFIUS had begun investigating the ByteDance-Musical.ly deal.<sup>42</sup> When the investigation opened, TikTok had never been more popular, reaching over 1.5 billion total downloads at the end of 2019, and ByteDance's valuation had never been higher, estimated to be around US\$140 billion in early 2020.<sup>43</sup> The CFIUS investigation and TikTok's subsequent political battle threatened to unravel China's first viral global technology platform.

**Globalizing TikTok's Governance** To ward off growing regulatory risks, ByteDance expanded its teams responsible for compliance with local market rules and made its operations more transparent. Until November 2019, when ByteDance began to hire more political risk analysts, the team responsible for assessing ByteDance's policy risks in foreign markets consisted of fewer than ten people. After CFIUS launched its investigation, ByteDance beefed up its risk and compliance teams in its "Trust and Safety" group, based out of Mountain View, Singapore, and Dublin.<sup>44</sup> When ByteDance's global hub for regulatory compliance opened in Dublin, it was staffed by only 20. By the end of 2020, the team had grown to include 600 staff. A ByteDance executive claimed that the company's Trust and Safety operations, which were also responsible for content moderation, employed over 10,000.<sup>45</sup> ByteDance also established the "TikTok Content Advisory Council," a team of external experts on content moderation and regulation, to work with the company on improving its platform. In summer 2020, TikTok published the basic criteria that powered its video recommendation algorithm to increase its transparency.<sup>46</sup> Moreover, ByteDance replaced TikTok head Alex Zhu, the co-founder of Musical.ly, in May 2020 with a CEO who fit the company's global aspirations: Kevin Mayer, former Disney vice president responsible for launching the company's successful streaming service.<sup>47</sup> Yet ByteDance's efforts to give TikTok both the trappings and talent befitting a globally responsible social media company could not prevent an existential crisis.

### *Banned: Trumpism's Guillotine*

TikTok's attempts to placate U.S. regulators were of no help to the company once it found itself in the crosshairs of Donald Trump's wrath. The company's biggest crisis began not with meddling by the Chinese government, nor with a failure to follow local rules, but with American teens on TikTok protesting the American president. Trump planned to hold his first political rally following the coronavirus outbreak on June 20, 2020. American teens who disliked the president organized on TikTok through a viral video campaign to crash the party. They made fake reservations en masse to

attend the rally on Trump's website to limit the availability of spots for the President's real supporters.<sup>48</sup> This took the Trump campaign by surprise at first, and the president had typically exaggerated the event's sign-ups, claiming it received nearly one million. However, in part because of the TikTok teens, whose participation received significant coverage in the American media, the rally was a bust. Only 6,200 showed up to the 19,000-seat venue, and a huge overflow pen outside the rally's arena was nearly empty. The lackluster showing embarrassed the famously thin-skinned president.<sup>49</sup> In meddling with his rallies, the TikTok platform struck too close to home for the image-conscious Trump. In the following weeks, Trump's team began developing a plan to bring the hammer down on TikTok in the United States.

The idea of banning TikTok from an entire market did not originate in the United States. Instead, the first instance of a nation banning the platform came in India on June 29, 2020, when the government blocked the app and 58 other Chinese apps to retaliate against China during a border dispute between the two countries.<sup>50</sup> Asked about India's decision by conservative Fox News host Laura Ingraham in the first week of July, Secretary of State Michael Pompeo told her that "I don't want to get out in front of the president, but it's something we're looking at" before going on to warn Americans against downloading Chinese apps.<sup>51</sup> The next day, Trump spoke for himself on the issue, blending TikTok in with other tensions in U.S.-China relations: "[Banning TikTok is] something we're looking at, yes. It's a big business. Look, what happened with China with this virus, what they've done to this country and to the entire world is disgraceful."<sup>52</sup> By the end of July, Trump had made up his mind. On July 31, he told reporters that "As far as TikTok is concerned, we're banning them from the United States."<sup>53</sup>

**Executive Orders** Trump followed through on his threat a week later, signing an Executive Order under which "any transaction by any person...subject to the jurisdiction of the United States, with ByteDance Ltd" was prohibited.<sup>54</sup> In barring "any transaction" with ByteDance, the administration cast a wide legal net to push both TikTok and its parent, ByteDance, out of the American market. The legal authority to do so came from the International Emergency Economic Powers Act (IEEPA), which permitted the president to block transactions with entities deemed an "unusual and extraordinary threat...to the national security, foreign policy, or economy of the United States." The IEEPA mainly has been used against terrorist groups, regimes with atrocious human rights records, or, since 2015, cyber criminals or entities interfering in U.S. elections.<sup>55</sup> Now, it was being used against a teen-crazed video app.

The order gave ByteDance time to seek a reprieve as it would not go into effect for 45 days. In response, TikTok released a statement stating that "We made clear our intentions to work...to devise a solution...We even expressed our willingness to pursue a full sale of the US business to an American company...This Executive Order risks undermining global businesses' trust in the United States' commitment to the rule of law."<sup>56</sup>

One week later, Trump signed another executive order, this time linked to the CFIUS investigation into TikTok. In the order, Trump claimed to have found "credible evidence that leads me to believe that ByteDance Ltd...through acquiring all interests in Musical.ly...might take action that threatens to impair the national security of the United States." As a result, he "prohibited" the acquisition of Musical.ly's American division and ordered ByteDance to "divest all interests and rights in" TikTok's U.S. operation as well as "any data obtained or derived from TikTok application or Musical.ly application users in the United States."<sup>57</sup> The Trump administration was taking a wrecking ball through ByteDance's American division. With crisis enveloping TikTok, its CEO, Kevin Mayer, jumped ship only 100 days into the job.<sup>58</sup>

## *The Art of the Deal?*

In previous American administrations, ByteDance's story in the United States would likely have reached the end of the road. However, under Trump, author of *The Art of the Deal*, everything was up for negotiation. To save TikTok in the United States, ByteDance turned Trump's divestment order into a chance to strike a deal with the president. While Trump's aides saw TikTok as a security threat, the president admitted that in business terms, it was a "great asset" but that "it's not a great asset in the United States unless they have approval in the United States."<sup>59</sup> This gave ByteDance room to negotiate a way forward. To do so, ByteDance would have to rely on the American friends it had made in the technology and financial industries during its meteoric rise.

**To Divest or Restructure?** Deal-making on Trump's terms meant that not just any U.S. buyer for TikTok's American operations would be suitable to the White House. The initial frontrunner to acquire TikTok in the United States was Microsoft, former employer of Zhang Yiming, which pitched itself to Trump as being able to add "world-class security, privacy, and digital safety protections."<sup>60</sup> Zhang's reported US\$30 billion asking price for TikTok was expensive even for the over US\$1.5 trillion Microsoft, and so the company invited American retailer Walmart to join its bid. Walmart was eager to put its US\$17 billion cash reserves to use and saw a stake in TikTok as an opportunity to "grow [its] third-party marketplace and advertising businesses" in e-commerce.<sup>61</sup> Yet, as talks proceeded, another company gained traction in negotiations with both Trump and ByteDance: Oracle.

Oracle, the cloud and enterprise technology company, brought to the deal strong relationships with both sides. Oracle founder Larry Ellison was a Trump confidant, and the deal the company crafted included significant contributions from existing ByteDance investors Sequoia Capital and General Atlantic. Both Trump and Zhang Yiming needed coaxing in the negotiations. Zhang was even reported to be considering to forgo a sale and live with the considerations, so reluctant was he to sell part of TikTok. For Trump's part, he wanted the U.S. government to get a cut of any deal "because we're making it possible."<sup>62</sup> The trust both sides had in Ellison and the Oracle deal's backers proved critical to reaching an agreement that had seemed off the table at the beginning. Instead of attempting an outright sale of TikTok, ByteDance would spin off TikTok's entire operations as a U.S.-based business called "TikTok Global" in which Oracle would be a minority stakeholder and "trusted technology partner" hosting TikTok's data in the United States and reviewing its software source code for possible vulnerabilities.<sup>63</sup> TikTok Global's U.S. operations would have a separate board approved by the U.S. government.<sup>64</sup> By mid-September, Trump told the U.S. media Oracle's deal had won out over Microsoft.

But the deal was not out of the woods. When Oracle and ByteDance released the deal terms, the two companies shared conflicting accounts of its substance. ByteDance claimed that it would retain 80% ownership of TikTok Global, while Oracle, which would have a 12.5% stake (and would be joined by Walmart with a 7.5% stake), claimed it would be majority American-owned. Technically, both companies were right. ByteDance was 40% owned by American investors, and so, extrapolated into this new structure, American investors accounted for 52% of TikTok Global. It was unclear, however, whether American investors would have 52% of the voting rights in the new company, particularly if ByteDance's voting share was controlled by its Chinese leadership rather than split up to represent the company's shareholders.<sup>65</sup> As the 45-day grace period neared its end, the Commerce Department gave ByteDance a week-long extension to finalize a deal before it would be banned from U.S. app stores.<sup>66</sup> November 12 was set as the date by which ByteDance had to divest itself of majority ownership of TikTok, or it would be blocked from transactions, which included hosting internet services, in the United States. Yet, it was unclear whether there was still a deal to be had. Trump said he would not approve a deal in which ByteDance held an 80% stake.<sup>67</sup> Moreover, ByteDance had to serve multiple

masters, and the Chinese state media telegraphed that the Chinese government, which had made algorithms subject to export controls, would not approve the deal.<sup>68</sup>

**Legal Strategy** Fortunately for ByteDance, it had not placed all its eggs in Oracle's basket. As the prospects for an imminent deal with Oracle faded, TikTok filed for an injunction against Trump's order, which it received from a U.S. judge hours before it was to be blocked on the app stores.<sup>69</sup> Then, in late October, three TikTok creators who had filed another suit received an injunction to suspend the ban on ByteDance's transactions and internet hosting services in America set to begin on November 12.<sup>70</sup> The Commerce Department agreed to stay the order as ByteDance's negotiations over TikTok's future continued.<sup>71</sup> ByteDance also filed to void the November 12 divestiture order, and, while no judge intervened this time, the Treasury Department pushed the deadline for a deal first to November 27 and then to December 4.<sup>72</sup> When the day came, it was reported that the Treasury Department would offer ByteDance no further extension; at the same time, it would also not enforce the divestiture order's deadline.<sup>73</sup> Days later, the judge that had granted ByteDance its first injunction issued another one against the U.S. government's pending order to prohibit "transactions" with ByteDance in the United States, writing that the administration "likely exceeded the IEEPA's express limitations as part of an agency action that was arbitrary and capricious."<sup>74</sup> In the meantime, the parties continued to reach for a deal, which the Trump administration wanted concluded before it handed off power to President-Elect Joe Biden.

At the end of 2020, ByteDance's operations were in limbo in the United States, but the company had bought itself enough time to negotiate a deal that could appease both the U.S. and Chinese governments. With early victories in American courts, ByteDance had also raised questions about the national security justifications for the Trump administration's actions against it. If further judicial opinions continued to support ByteDance's case, it could pave the way for clearer, and potentially stricter, criteria for national security threats sufficient for the American executive branch to initiate an intervention in the U.S. economy. Although ByteDance had staved off its worst-case scenario, it still had no clear way forward in America, barring additional victories in the U.S. court system or the Trump administration's retreat from its demands that ByteDance cede the majority of TikTok to U.S. investors.

## Whither ByteDance's Global Vision?

Even if ByteDance were able to get a divestiture deal in which it still had a significant stake in TikTok's U.S. operations, how could it manage a global TikTok platform with a walled-off American user base? Would it be best to pursue a Douyin-esque model in America, where whatever remained of TikTok in the country would be self-contained and disconnected from the global platform? While the loss of unfettered access to America would deal a major blow to ByteDance's aspirations, more worrisome was the possibility that, as the idea of "banning" TikTok in India had migrated to the United States, other national governments would also order ByteDance to separate their citizens' data and content from the global TikTok platform due to privacy and security concerns.

There was a certain irony to ByteDance's predicament. From day one, TikTok was designed to be a platform with content from everywhere *except* China. ByteDance's strategy demonstrated the challenge of maintaining a global social network while complying with Chinese censorship at home. ByteDance had sought to avoid this conundrum by operating Douyin and TikTok as separate platforms with TikTok treating China as an anomalous market. But the politics of China's relations with the rest of the world cut across market boundaries. While the Chinese government considered its political and security concerns as domestic matters, other governments protested China's expansion of political and ideological controls, especially as Chinese tech firms expanded abroad.

If TikTok managed to survive, with users in the United States, India, and China carved out, it would be difficult to argue that ByteDance was operating a truly global platform. More important in practical terms was finding a solution to ByteDance's American woes. The alternative was a future in which other governments would begin to circle like vultures over its operations elsewhere.

Should Zhang Yiming proceed with the Oracle deal, giving up control over TikTok's platform in the United States to prove ByteDance's seriousness about addressing data security concerns? How would the Chinese government react to Zhang negotiating a compromise with the U.S. government? Or should Zhang back out of the deal and live with the consequences, hoping that the U.S. judiciary would find it inconceivable that TikTok posed an "unusual and extraordinary" threat to national security under the International Emergency Economic Powers Act?

Zhang showed no signs of dropping his global ambitions for ByteDance, but, with such turbulence and uncertainty facing his company's crown jewel, was there more he could do to address American concerns without compromising his global vision for TikTok?

## Endnotes

<sup>1</sup> "TikTok Parent ByteDance Seeks to Raise Cash at \$180 Billion Valuation," *Bloomberg*, November 5, 2020, <https://www.bloomberg.com/news/articles/2020-11-05/bytedance-seeks-funds-at-180-billion-value-before-ipo-of-assets?sref=8JkQ65qI>.

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