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RPTR BRYANT

EDTR CRYSTAL

LEGISLATION TO PROTECT AMERICAN DATA AND
NATIONAL SECURITY FROM FOREIGN ADVERSARIES

THURSDAY, MARCH 7, 2024

House of Representatives,
Committee on Energy and Commerce,
Washington, D.C.

The committee met, pursuant to call, at 10:05 a.m., in Room 2322, Rayburn House Office Building, Hon. Cathy McMorris Rodgers [chairwoman of the committee] presiding.

Present: Representatives Rodgers, Burgess, Latta, Guthrie, Griffith, Bilirakis, Bucshon, Hudson, Walberg, Carter, Duncan, Palmer, Dunn, Lesko, Pence, Joyce, Armstrong, Weber, Allen, Balderson, Fulcher, Pfluger, Harshbarger, Miller-Meeks, Cammack, Obernolte, Pallone, Eshoo, DeGette, Schakowsky, Matsui, Castor, Sarbanes, Tonko, Clarke, Cardenas, Ruiz, Peters, Dingell, Veasey, Kuster, Kelly, Soto, Schrier, and Fletcher.

Staff Present: Sarah Burke, Deputy Staff Director; Nick Crocker, Senior Advisor and Director of Coalitions; Sydney Greene, Director of Operations; Slate Herman, Counsel;

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Jessica Herron, Clerk; Nate Hodson, Staff Director; Tara Hupman, Chief Counsel; Noah Jackson, Clerk; Sean Kelly, Press Secretary; Lauren Kennedy, Clerk; Alex Khlopin, Staff Assistant; Peter Kielty, General Counsel; Emily King, Member Services Director; Giulia Leganski, Professional Staff Member; John Lin, Senior Counsel; Kate O'Connor, Chief Counsel; Karli Plucker, Director of Operations (WA-05); Carla Rafael, Senior Staff Assistant; Hannah Anton, Minority Policy Analyst; Keegan Cardman, Minority Staff Assistant; Jennifer Epperson, Minority Chief Counsel, Communications & Technology; Waverly Gordon, Minority Deputy Staff Director and General Counsel; Daniel Greene, Minority Professional Staff Member; Tiffany Guarascio, Minority Staff Director; Perry Hamilton, Minority Member Services and Outreach Manager; Lisa Hone, Minority Chief Counsel, Innovation, Data, and Commerce; Dan Miller, Minority Professional Staff Member; Francella Ochillo, Minority IDC Fellow; Joe Orlando, Minority Junior Professional Staff Member; Emma Roehrig, Minority Staff Assistant; Phoebe Rouge, FTC Detailee; Michael Scurato, Minority FCC Detailee; Andrew Souvall, Minority Director of Communications, Outreach and Member Services; Johanna Thomas, Minority Counsel; and C.J. Young, Minority Deputy Communications Director.

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The Chair. The committee will come to order.

Before I recognize myself and Ranking Member Pallone, I would like to address the unusual circumstances of this hearing.

First, it is the custom of the committee and required under the House rules that a hearing will not commence earlier than 1 week after such hearing is announced.

However, pursuant to clause 2(g)(3)(B) of Rule XI of the House Rules, a hearing may begin sooner in one of two cases. Either, one, the chair and ranking minority member determine that there is good cause; or, two, the committee so determines by a majority vote the good cause exception.

In recent history, the committee has invoked the good cause exception to hold a hearing on short notice just a few times, when holding hearings at the start of a new Congress. In these cases, Mr. Pallone and I had a discussion on the matter.

Colleagues, I have remained and stayed true to our commitment and the good cause exception has not become regular practice during my tenure as chair, and it will not become the practice for the duration.

Following a classified briefing last week, Mr. Pallone and I have determined that there is a national security interest and good cause to hold this hearing on these bills with shorter notice so that we can maintain regular order before marking up this important legislation later today.

Before we begin opening statements, do you have any initial comments, Mr. Pallone?

Mr. Pallone. Well, I just want to thank you, Chair Rodgers, for your explanation and your commitment to continue with regular order as it pertains to the noticing of

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committee meetings. So thank you.

The Chair. Okay.

I now recognize myself for 5 minutes for an opening statement.

The Chinese Communist Party poses the greatest national security threat to the United States of our time. With applications like TikTok, these countries are able to target, surveil, and manipulate Americans.

Protecting Americans' data and addressing the serious national security threat posed by the CCP have been my top priorities all Congress.

This committee and others have been working diligently, in a bipartisan manner, to deliver solutions to address these critical issues.

Today we take action.

One year ago this month, the CEO of TikTok testified before this committee to answer for the threat his company poses to America's national security. During the hearing, he was asked several times if ByteDance uses information it collects from TikTok users to spy on Americans. His response was, and I quote, "I wouldn't describe it as spying."

TikTok has repeatedly been caught lying about its connection to ByteDance, as well as the level of access the CCP has to our data, which they are using to weaponize our freedoms against us.

That ends now.

TikTok's access to 170 million American users makes it a valuable propaganda tool for the CCP to exploit and use for nefarious purposes.

Through this access, the app is able to collect nearly every data point imaginable -- from people's location, to what they search for on their devices, to who

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they are connecting with, and other forms of sensitive information.

The app's trackers are embedded in sites across the web. So even if someone has never been on TikTok, their personal information is at risk of being collected and abused.

TikTok's parent company, ByteDance, is currently under investigation by the U.S. Department of Justice for surveilling on American journalists. And that is just one example. It gets much worse.

While TikTok may be the most well-known application subject to the CCP, it is certainly not the only one. Others, like Lemon8 and CapCut, are also subject to the CCP's influence through ByteDance.

That is why today we are discussing legislation that will prevent apps controlled by foreign adversaries from targeting, surveilling, and manipulating the American people.

I commend members of the Select Committee on the Chinese Communist Party, in particular Chairman Mike Gallagher and Ranking Member Raja Krishnamoorthi, for their partnership on this legislation to address the immediate threat that ByteDance ownership of TikTok poses, and I look forward to quickly advancing this bill to the full House.

This is a targeted approach to prohibit access to an application owned by a foreign adversary that poses a clear threat to U.S. national security.

Additionally, we will be discussing legislation to prevent data brokers from sharing Americans' sensitive information with foreign adversaries and the companies they control.

We know that data brokers sell our sensitive information to the highest bidder, and I am appreciative of Ranking Member Pallone bringing this legislation forward so that we may establish clear prohibitions on the sale of location and health information to our

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adversaries.

This is an important step in our continued efforts to establish comprehensive data privacy in order to effectively crack down on abuses of our personal information.

Companies controlled by a foreign adversary, like the CCP, will never embrace American values, virtues of our society and culture, like freedom of speech, human rights, the rule of law, a free press, and others.

Our adversaries choose to rule through fear and control. If given the choice, they will always choose the path for more control, more surveillance, and more manipulation.

Apps like TikTok, Lemon8, and CapCut are spying by design. They have to. It is required by law in China.

This foreign interference and manipulation is not welcome here. The threats posed by TikTok are real, which is why today we will be hearing from the national intelligence community about the threats and how this legislation will neutralize them.

I look forward to our discussion today, and I yield to my colleague, Ranking Member Frank Pallone.

[The prepared statement of The Chair follows:]

***** COMMITTEE INSERT *****

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Mr. Pallone. Thank you, Madam Chair.

Today the committee will consider two bills, H.R. 7520 and H.R. 7521, that are intended to protect the public from foreign adversaries.

Big tech has transformed the information superhighway into a super-spreader of harmful content, invasive surveillance practices, and addictive and damaging design features.

Foreign adversaries understand this and see access to Americans' data, communications networks, devices, and applications as the entry points to disrupt our daily lives and conduct espionage activities.

And we have seen too often bad actors using communication tools to launch cyber attacks. They have pushed disinformation and propaganda campaigns in the United States in an attempt to undermine our democracy and gain worldwide influence and control. And this is all a detriment of our national security interests.

And then there are the data brokers, who collect and sell vast amounts of Americans' most sensitive personal information for profit.

Right now, there are no restrictions on who they can sell this information to. It may be about members of our Nation's military and our children, or it may be information about where we go, how we spend our money, and the websites we visit. And this information can be purchased by anyone, including foreign adversary governments.

Most Americans are unaware that data brokers compile dossiers about their interests, beliefs, actions, and movements, and Americans are powerless to stop this invasion of their privacy.

While the answer to this problem is comprehensive national data privacy

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protections, I firmly believe that we must do what we can now to safeguard Americans' personal data while we work to advance privacy legislation.

So I am pleased that today we will consider H.R. 7520, the Protecting Americans' Data from Foreign Adversaries Act, which Chair Rodgers and I introduced this week. It will address this national security vulnerability by preventing data brokers from selling sensitive personal information of Americans to our foreign adversaries.

And we will also consider H.R. 7521, the Protecting Americans from Foreign Adversary Controlled Applications Act, introduced this week by Representatives Krishnamoorthi and Gallagher.

This bill sets forth a process to incentivize the divestiture of TikTok and other applications from the operation and control of foreign adversary governments, like the People's Republic of China and Russia.

Social media companies effectively are modern day media companies, and we must treat them that way. This includes examining the foreign investments in these companies.

Now, the Communications Act requires the FCC to undertake such an examination for our country's television and radio broadcast licenses. Congress placed this requirement on U.S. broadcasters to protect national security interests during wartime to prevent the airing of foreign propaganda on our country's broadcast stations.

There is no reason social media companies should be exempt from this scrutiny. Given Russia, China, and others' actions on social media platforms during our recent elections, we know that while the technology has evolved, the threat is very much the same.

The combination of TikTok's Beijing communist-based ownership and the fact that

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well over 170 million Americans use this application exacerbates its dangers to our country and our privacy.

The laws in China allow the Chinese Communist Party to compel companies like TikTok to share data with them whether the companies want to or not. And this means that the CCP has the ability, with TikTok, to compromise device security, maliciously access Americans' data, promote pro-communist propaganda, and undermine American interests.

So I look forward to hearing more today from our intelligence and national security community about how this bill can bolster their authorities to take action where it is needed to ensure that our modern day media outlets are not subject to the influence of countries that see benefit in the weakening of our country.

I have serious national security concerns about TikTok, and I am sympathetic to the intent of this legislation, but I want to hear from our witnesses before making a final decision.

Now, finally, I must express my disappointment in how rushed this process has been.

This committee has worked together on a bipartisan basis on numerous occasions to advance legislation that furthers our national security interests. So committee Democrats would have appreciated more notice and time to digest the legislation before us before it advances to a markup this afternoon.

There are very complex constitutional concerns implicated by this bill, and I think we all would have benefited more from a more thorough process that results from regular order.

Nevertheless, I appreciate that Chair Rodgers agreed to my request to hold this

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hearing so members can hear from experts and review the proposals before jumping to a vote later today.

And so, with that, Madam Chair, I yield back the balance of my time.

[The prepared statement of Mr. Pallone follows:]

***** COMMITTEE INSERT *****

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The Chair. Thank you, Mr. Pallone.

I now recognize myself to offer a motion pursuant to clause 2(g)(1) of Rule XI of the Rules of the House of Representatives to recess this hearing and reconvene in executive session, because disclosure of matters to be considered would endanger national security.

I move that the committee do now recess and reconvene in executive session based on our determination that the disclosure of matters that need to be considered during this hearing would, one, endanger national security, and, two, compromise sensitive law enforcement information.

The clerk will call the roll.

So the motion is before us to recess pursuant to clause 2(g)(1) of Rule XI of the House Rules.

The clerk will call the roll.

The Clerk. Burgess?

Mr. Burgess. Burgess votes aye.

The Clerk. Burgess votes aye.

Latta?

Mr. Latta. Aye.

The Clerk. Latta votes aye.

Guthrie?

Mr. Guthrie. Aye.

The Clerk. Guthrie votes aye.

Griffith?

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Mr. Griffith. Aye.

The Clerk. Griffith votes aye.

Bilirakis?

Mr. Bilirakis. Aye.

The Clerk. Bilirakis votes aye.

Bucshon?

Mr. Bucshon. Aye.

The Clerk. Bucshon votes aye.

Hudson?

Mr. Hudson. Aye.

The Clerk. Hudson votes aye.

Walberg?

Mr. Walberg. Aye.

The Clerk. Walberg votes aye.

Carter?

Mr. Carter. Aye.

The Clerk. Carter votes aye.

Duncan?

Mr. Duncan. Duncan votes aye.

The Clerk. Duncan votes aye.

Palmer?

Mr. Palmer. Aye.

The Clerk. Palmer votes aye.

Dunn?

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Mr. Dunn. Aye.

The Clerk. Dunn votes aye.

Curtis?

[No response.]

The Clerk. Lesko?

Mrs. Lesko. Aye.

The Clerk. Lesko votes aye.

Pence?

Mr. Pence. Aye.

The Clerk. Pence votes aye.

Crenshaw?

[No response.]

The Clerk. Joyce?

Mr. Joyce. Aye.

The Clerk. Joyce votes aye.

Armstrong?

Mr. Armstrong. Yes.

The Clerk. Armstrong votes aye.

Weber?

Mr Weber. Aye.

The Clerk. Weber votes aye.

Allen?

Mr. Allen. Allen votes aye.

The Clerk. Allen votes aye.

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Balderson?

Mr. Balderson. Aye.

The Clerk. Balderson votes aye.

Fulcher?

Mr. Fulcher. Aye.

The Clerk. Fulcher votes aye.

Pfluger?

Mr. Pfluger. Aye.

The Clerk. Pfluger votes aye.

Harshbarger?

Mrs. Harshbarger. Aye.

The Clerk. Harshbarger votes aye.

Miller-Meeks?

Mrs. Miller-Meeks. Aye.

The Clerk. Miller-Meeks votes aye.

Cammack?

Mrs. Cammack. Aye.

The Clerk. Cammack votes aye.

Obernolte?

Mr. Obernolte. Aye.

The Clerk. Obernolte votes aye.

Pallone?

Mr. Pallone. Aye.

The Clerk. Pallone votes aye.

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Eshoo?

Ms. Eshoo. Aye.

The Clerk. Eshoo votes aye.

DeGette?

Ms. DeGette. Aye.

The Clerk. DeGette votes aye.

Schakowsky?

Ms. Schakowsky. Aye.

The Clerk. Schakowsky votes aye.

Matsui?

Ms. Matsui. Aye.

The Clerk. Matsui votes aye.

Castor?

Ms. Castor. Aye.

The Clerk. Castor votes aye.

Sarbanes?

Mr. Sarbanes. Aye.

The Clerk. Sarbanes votes aye.

Tonko?

Mr. Tonko. Aye.

The Clerk. Tonko votes aye.

Clarke?

[No response.]

The Clerk. Cardenas?

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[No response.]

The Clerk. Ruiz?

Mr. Ruiz. Aye.

The Clerk. Ruiz votes aye.

Peters?

Mr. Peters. Aye.

The Clerk. Peters votes aye.

Dingell?

Mrs. Dingell. Aye.

The Clerk. Dingell votes aye.

Veasey?

Mr. Veasey. Aye.

The Clerk. Veasey votes aye.

Kuster?

Ms. Kuster. Aye.

The Clerk. Kuster votes aye.

Kelly?

[No response.]

The Clerk. Barragan?

[No response.]

The Clerk. Blunt Rochester?

[No response.]

Soto?

Mr. Soto. Aye.

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The Clerk. Soto votes aye.

Craig?

[No response.]

The Clerk. Schrier?

Ms. Schrier. Aye.

The Clerk. Schrier votes aye.

Trahan?

[No response.]

The Clerk. Fletcher?

Mrs. Fletcher. Aye.

The Clerk. Fletcher votes aye.

Chair Rodgers?

The Chair. Aye.

The Clerk. Chair Rodgers votes aye.

Ms. Kelly. Madam Clerk, how is Ms. Kelly recorded?

The Clerk. Ms. Kelly is not recorded.

Ms. Kelly. Aye.

The Clerk. Kelly votes aye.

The Chair. The clerk will report the result.

The Clerk. Chair Rodgers, on that vote, we have 43 ayes and zero noes.

The Chair. The motion is agreed to.

We will now recess, and we will reconvene in a classified executive session in 2123

Rayburn. I ask the members to move to our secure location, check in their electronic devices. We will reconvene in approximately 15 minutes to continue the hearing and

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take the witness testimony there.

The committee stands in recess.

[Whereupon, at 10:21 a.m., the committee proceeded in closed session.]