

Critic calls Washington's TikTok move 'mafia' deal

Lia Zhu and Chen Yingqun

August 5, 2020

TikTok's roller-coaster ride in the United States continued on Monday as President Donald Trump said he would approve the video-sharing app's sale to Microsoft only if the US government gets a cut, a condition that one expert called a "mafia" deal.

The president also gave Microsoft and TikTok's Chinese owner, ByteDance, a deadline of Sept 15 to complete the deal, or the app will be banned in the US.

Foreign Ministry spokesman Wang Wenbin said at a regular media briefing in Beijing on Tuesday that the US treatment of TikTok is "outright bullying", and the US only uses a "national security risk" as an excuse to suppress Chinese tech enterprises.

"The relevant enterprises carry out business activities in the US following market principles and international rules and abiding by local laws and regulations," he said. "However, the US has set restrictions and suppressed them with unwarranted charges, which is political manipulation."

Wang said that if the wrongdoing by the US continues, then any country could take similar measures against any American enterprise on the grounds of national security.

"The US side must not open this Pandora's box, otherwise it will suffer its consequences," he said.

The increased scrutiny of TikTok culminated on Friday when Trump threatened to ban the app from operating in the US due to a "national security risk". The negotiations between the two companies were then halted.

But after a weekend phone call with Microsoft CEO Satya Nadella, Trump reversed his stance and reportedly gave the two companies 45 days to close the deal. This was confirmed by Microsoft on Sunday, which said in a statement it "will move quickly to pursue discussions" with ByteDance and complete the talks "no later than" Sept 15.

The president added a condition to the potential purchase on Monday: Microsoft should buy TikTok outright, and the US Treasury Department should be paid because the government made the deal possible.

"It's a little bit like the landlord/tenant; without a lease the tenant has nothing, so they pay what's called 'key money', or they pay something," Trump told reporters in the Cabinet Room at the White House on Monday. "But the United States should be reimbursed or should be paid a substantial amount of money, because, without the United States, they don't have anything."

Investors in privately owned Byte-Dance valued TikTok at \$50 billion, according to a Reuters report.

Kai-Fu Lee, former chairman of Google China, said the US treatment of TikTok, including "forced acquisition, plus only 45 days, plus finder's fees", is "incredible".

Lee said that China has set clear rules for internet companies that want to operate in the country, and Google had decided to exit as it didn't want to comply with Chinese laws and regulations.

"The US didn't give any parameters that TikTok could work with, and didn't provide any evidence for their claims that TikTok had caused national security risks to the US," he said.

The legal basis of Trump's requirement that some of the money from the deal go to the US Treasury was immediately questioned by experts.

"This is quite unusual; this is out of the norm," Gene Kimmelman, a former chief counsel for the US Department of Justice's Antitrust Division, told CNN.

"It's actually quite hard to understand what the president is actually talking about here.... It's not unheard of for transactions to have broader geopolitical implications between countries, but it's quite remarkable to think about some kind of money being on the table in connection with a transaction," said Kimmelman, a senior adviser to the policy group Public Knowledge.

Julian Sanchez, a senior fellow at the Cato Institute, a think tank based in Washington, D.C., said Trump's "extortion threat" is a "mafia business model".

"Trump's full explanation of why the Treasury should get a 'cut' of a Microsoft/TikTok deal is, somehow, even more grotesque and shameless than I had anticipated," said Sanchez.

"As with his tariff policy, there doesn't seem to be any consideration of whether this sets a dangerous precedent for other countries to engage in similar pretextual protectionism against us, or how whimsically compelling divestment might affect international investment," he said.

Samm Sacks, a senior fellow at Yale Law School's Paul Tsai China Center, also warned that shutting down the app altogether would set "a dangerous precedent in which the US government can blacklist companies based on country of origin using blanket national security as justification".

The Trump administration has been scrutinizing TikTok for several months, claiming that the platform shares the data of US users with the Chinese government. The company has repeatedly denied the accusations, maintaining that all the users' information is stored in the US.