

(3) facilitating sports and recreation events and activities in the United States.

(e) Recovery strategies

(1) In general

Not later than 1 year after amounts are appropriated to the Department of Commerce to accomplish the purposes of this section, the Assistant Secretary, in consultation with the entities referred to in subsection (a)(3), shall develop recovery strategies for the travel and tourism industry in response to the economic impacts of the COVID-19 pandemic and in anticipation of other unpredictable catastrophic events that would significantly affect the travel and tourism industry, such as hurricanes, floods, tsunamis, tornadoes, wildfires, terrorist attacks, and pandemics.

(2) Cost-benefit analysis

In developing the recovery strategies under paragraph (1), the Assistant Secretary shall conduct cost-benefit analyses that take into account the health and economic effects of public health mitigation measures on the travel and tourism industry.

(f) Reporting requirements

(1) Assistant Secretary

The Assistant Secretary, subject to the availability of appropriations, shall produce an annual forecasting report on the travel and tourism industry, which shall include current and anticipated—

- (A) domestic employment needs;
- (B) international inbound volume and spending, taking into account the lasting effects of the COVID-19 public health emergency and the impact of the recovery strategy implemented pursuant to subsection (e)(1); and
- (C) domestic volume and spending, including Federal and State public land travel and tourism data.

(2) Bureau of Economic Analysis

The Director of the Bureau of Economic Analysis, subject to the availability of appropriations and to the extent feasible, should make quarterly updates to the Travel and Tourism Satellite Accounts, including—

- (A) State-level travel and tourism spending data;
- (B) travel and tourism workforce data for full-time and part-time employment; and
- (C) Federal and State public lands outdoor recreational activity and tourism spending data.

(3) National Travel and Tourism Office

The Director of the National Travel and Tourism Office—

- (A) in partnership with the Bureau of Economic Analysis and other relevant Federal agencies, shall provide a monthly report on international arrival and spending data to—
 - (i) the Travel and Tourism Advisory Board; and
 - (ii) the public through a publicly accessible website; and
- (B) shall include questions in the Survey of International Air Travelers regarding

wait-times, visits to public lands, and State data, to the extent applicable.

(Pub. L. 117-328, div. BB, title VI, § 605, Dec. 29, 2022, 136 Stat. 5567.)

§ 9804. Travel and tourism strategy

Not less frequently than once every 10 years, the Secretary of Commerce, in consultation with the United States Travel and Tourism Advisory Board, the Tourism Policy Council, the Secretary of State, and the Secretary of Homeland Security, shall develop and submit to Congress a 10-year travel and tourism strategy, which shall include—

- (1) the establishment of goals with respect to the number of annual international visitors to the United States and the annual amount of travel and tourism commerce in the United States during such 10-year period;
- (2) the resources needed to achieve the goals established pursuant to paragraph (1); and
- (3) recommendations for statutory or regulatory changes that would be necessary to achieve such goals.

(Pub. L. 117-328, div. BB, title VI, § 606, Dec. 29, 2022, 136 Stat. 5569.)

§ 9805. Data on domestic travel and tourism

The Assistant Secretary of Commerce for Travel and Tourism, subject to the availability of appropriations, shall collect and make public aggregate data on domestic travel and tourism trends.

(Pub. L. 117-328, div. BB, title VI, § 608, Dec. 29, 2022, 136 Stat. 5570.)

CHAPTER 123—PROTECTING AMERICANS' DATA FROM FOREIGN ADVERSARIES

Sec.

9901. Prohibition on transfer of personally identifiable sensitive data of United States individuals to foreign adversaries.

§ 9901. Prohibition on transfer of personally identifiable sensitive data of United States individuals to foreign adversaries

(a) Prohibition

It shall be unlawful for a data broker to sell, license, rent, trade, transfer, release, disclose, provide access to, or otherwise make available personally identifiable sensitive data of a United States individual to—

- (1) any foreign adversary country; or
- (2) any entity that is controlled by a foreign adversary.

(b) Enforcement by Federal Trade Commission

(1) Unfair or deceptive acts or practices

A violation of this section shall be treated as a violation of a rule defining an unfair or a deceptive act or practice under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(2) Powers of Commission

(A) In general

The Commission shall enforce this section in the same manner, by the same means, and

with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this section.

(B) Privileges and immunities

Any person who violates this section shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act.

(3) Authority preserved

Nothing in this section may be construed to limit the authority of the Commission under any other provision of law.

(c) Definitions

In this section:

(1) Commission

The term “Commission” means the Federal Trade Commission.

(2) Controlled by a foreign adversary

The term “controlled by a foreign adversary” means, with respect to an individual or entity, that such individual or entity is—

(A) a foreign person that is domiciled in, is headquartered in, has its principal place of business in, or is organized under the laws of a foreign adversary country;

(B) an entity with respect to which a foreign person or combination of foreign persons described in subparagraph (A) directly or indirectly own at least a 20 percent stake; or

(C) a person subject to the direction or control of a foreign person or entity described in subparagraph (A) or (B).

(3) Data broker

(A) In general

The term “data broker” means an entity that, for valuable consideration, sells, licenses, rents, trades, transfers, releases, discloses, provides access to, or otherwise makes available data of United States individuals that the entity did not collect directly from such individuals to another entity that is not acting as a service provider.

(B) Exclusion

The term “data broker” does not include an entity to the extent such entity—

(i) is transmitting data of a United States individual, including communications of such an individual, at the request or direction of such individual;

(ii) is providing, maintaining, or offering a product or service with respect to which personally identifiable sensitive data, or access to such data, is not the product or service;

(iii) is reporting or publishing news or information that concerns local, national, or international events or other matters of public interest;

(iv) is reporting, publishing, or otherwise making available news or information that is available to the general public—

(I) including information from—

(aa) a book, magazine, telephone book, or online directory;

(bb) a motion picture;

(cc) a television, internet, or radio program;

(dd) the news media; or

(ee) an internet site that is available to the general public on an unrestricted basis; and

(II) not including an obscene visual depiction (as such term is used in section 1460 of title 18); or

(v) is acting as a service provider.

(4) Foreign adversary country

The term “foreign adversary country” means a country specified in section 4872(d)(2) of title 10.

(5) Personally identifiable sensitive data

The term “personally identifiable sensitive data” means any sensitive data that identifies or is linked or reasonably linkable, alone or in combination with other data, to an individual or a device that identifies or is linked or reasonably linkable to an individual.

(6) Precise geolocation information

The term “precise geolocation information” means information that—

(A) is derived from a device or technology of an individual; and

(B) reveals the past or present physical location of an individual or device that identifies or is linked or reasonably linkable to 1 or more individuals, with sufficient precision to identify street level location information of an individual or device or the location of an individual or device within a range of 1,850 feet or less.

(7) Sensitive data

The term “sensitive data” includes the following:

(A) A government-issued identifier, such as a Social Security number, passport number, or driver’s license number.

(B) Any information that describes or reveals the past, present, or future physical health, mental health, disability, diagnosis, or healthcare condition or treatment of an individual.

(C) A financial account number, debit card number, credit card number, or information that describes or reveals the income level or bank account balances of an individual.

(D) Biometric information.

(E) Genetic information.

(F) Precise geolocation information.

(G) An individual’s private communications such as voicemails, emails, texts, direct messages, mail, voice communications, and video communications, or information identifying the parties to such communications or pertaining to the transmission of such communications, including telephone numbers called, telephone numbers from which calls were placed, the time calls were made, call duration, and location information of the parties to the call.

(H) Account or device log-in credentials, or security or access codes for an account or device.

(I) Information identifying the sexual behavior of an individual.

(J) Calendar information, address book information, phone or text logs, photos, audio recordings, or videos, maintained for private use by an individual, regardless of whether such information is stored on the individual's device or is accessible from that device and is backed up in a separate location.

(K) A photograph, film, video recording, or other similar medium that shows the naked or undergarment-clad private area of an individual.

(L) Information revealing the video content requested or selected by an individual.

(M) Information about an individual under the age of 17.

(N) An individual's race, color, ethnicity, or religion.

(O) Information identifying an individual's online activities over time and across websites or online services.

(P) Information that reveals the status of an individual as a member of the Armed Forces.

(Q) Any other data that a data broker sells, licenses, rents, trades, transfers, releases, discloses, provides access to, or otherwise makes available to a foreign adversary country, or entity that is controlled by a foreign adversary, for the purpose of identifying the types of data listed in subparagraphs (A) through (P).

(8) Service provider

The term "service provider" means an entity that—

(A) collects, processes, or transfers data on behalf of, and at the direction of—

(i) an individual or entity that is not a foreign adversary country or controlled by a foreign adversary; or

(ii) a Federal, State, Tribal, territorial, or local government entity; and

(B) receives data from or on behalf of an individual or entity described in subparagraph (A)(i) or a Federal, State, Tribal, territorial, or local government entity.

(9) United States individual

The term "United States individual" means a natural person residing in the United States.

(d) Effective date

This section shall take effect on the date that is 60 days after April 24, 2024.

(Pub. L. 118-50, div. I, § 2, Apr. 24, 2024, 138 Stat. 960.)

Editorial Notes

REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in subsec. (b)(2), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of this title. For complete classification of this Act to the Code, see section 58 of this title and Tables.

Statutory Notes and Related Subsidiaries

SHORT TITLE

Pub. L. 118-50, div. I, § 1, Apr. 24, 2024, 138 Stat. 960, provided that: "This division [enacting this chapter]

may be cited as the 'Protecting Americans' Data from Foreign Adversaries Act of 2024'."

PROTECTING AMERICANS FROM FOREIGN ADVERSARY CONTROLLED APPLICATIONS

Pub. L. 118-50, div. H, Apr. 24, 2024, 138 Stat. 955, provided that:

"SEC. 1. SHORT TITLE.

"This division may be cited as the 'Protecting Americans from Foreign Adversary Controlled Applications Act'.

"SEC. 2. PROHIBITION OF FOREIGN ADVERSARY CONTROLLED APPLICATIONS.

"(a) IN GENERAL.—

"(1) PROHIBITION OF FOREIGN ADVERSARY CONTROLLED APPLICATIONS.—It shall be unlawful for an entity to distribute, maintain, or update (or enable the distribution, maintenance, or updating of) a foreign adversary controlled application by carrying out, within the land or maritime borders of the United States, any of the following:

"(A) Providing services to distribute, maintain, or update such foreign adversary controlled application (including any source code of such application) by means of a marketplace (including an online mobile application store) through which users within the land or maritime borders of the United States may access, maintain, or update such application.

"(B) Providing internet hosting services to enable the distribution, maintenance, or updating of such foreign adversary controlled application for users within the land or maritime borders of the United States.

"(2) APPLICABILITY.—Subject to paragraph (3), this subsection shall apply—

"(A) in the case of an application that satisfies the definition of a foreign adversary controlled application pursuant to subsection (g)(3)(A), beginning on the date that is 270 days after the date of the enactment of this division [Apr. 24, 2024]; and

"(B) in the case of an application that satisfies the definition of a foreign adversary controlled application pursuant to subsection (g)(3)(B), beginning on the date that is 270 days after the date of the relevant determination of the President under such subsection.

"(3) EXTENSION.—With respect to a foreign adversary controlled application, the President may grant a 1-time extension of not more than 90 days with respect to the date on which this subsection would otherwise apply to such application pursuant to paragraph (2), if the President certifies to Congress that—

"(A) a path to executing a qualified divestiture has been identified with respect to such application;

"(B) evidence of significant progress toward executing such qualified divestiture has been produced with respect to such application; and

"(C) there are in place the relevant binding legal agreements to enable execution of such qualified divestiture during the period of such extension.

"(b) DATA AND INFORMATION PORTABILITY TO ALTERNATIVE APPLICATIONS.—Before the date on which a prohibition under subsection (a) applies to a foreign adversary controlled application, the entity that owns or controls such application shall provide, upon request by a user of such application within the land or maritime borders of United States, to such user all the available data related to the account of such user with respect to such application. Such data shall be provided in a machine readable format and shall include any data maintained by such application with respect to the account of such user, including content (including posts, photos, and videos) and all other account information.

"(c) EXEMPTIONS.—

"(1) EXEMPTIONS FOR QUALIFIED DIVESTITURES.—Subsection (a)—

“(A) does not apply to a foreign adversary controlled application with respect to which a qualified divestiture is executed before the date on which a prohibition under subsection (a) would begin to apply to such application; and

“(B) shall cease to apply in the case of a foreign adversary controlled application with respect to which a qualified divestiture is executed after the date on which a prohibition under subsection (a) applies to such application.

“(2) EXEMPTIONS FOR CERTAIN NECESSARY SERVICES.—Subsections (a) and (b) do not apply to services provided with respect to a foreign adversary controlled application that are necessary for an entity to attain compliance with such subsections.

“(d) ENFORCEMENT.—

“(1) CIVIL PENALTIES.—

“(A) FOREIGN ADVERSARY CONTROLLED APPLICATION VIOLATIONS.—An entity that violates subsection (a) shall be subject to pay a civil penalty in an amount not to exceed the amount that results from multiplying \$5,000 by the number of users within the land or maritime borders of the United States determined to have accessed, maintained, or updated a foreign adversary controlled application as a result of such violation.

“(B) DATA AND INFORMATION VIOLATIONS.—An entity that violates subsection (b) shall be subject to pay a civil penalty in an amount not to exceed the amount that results from multiplying \$500 by the number of users within the land or maritime borders of the United States affected by such violation.

“(2) ACTIONS BY ATTORNEY GENERAL.—The Attorney General—

“(A) shall conduct investigations related to potential violations of subsection (a) or (b), and, if such an investigation results in a determination that a violation has occurred, the Attorney General shall pursue enforcement under paragraph (1); and

“(B) may bring an action in an appropriate district court of the United States for appropriate relief, including civil penalties under paragraph (1) or declaratory and injunctive relief.

“(e) SEVERABILITY.—

“(1) IN GENERAL.—If any provision of this section or the application of this section to any person or circumstance is held invalid, the invalidity shall not affect the other provisions or applications of this section that can be given effect without the invalid provision or application.

“(2) SUBSEQUENT DETERMINATIONS.—If the application of any provision of this section is held invalid with respect to a foreign adversary controlled application that satisfies the definition of such term pursuant to subsection (g)(3)(A), such invalidity shall not affect or preclude the application of the same provision of this section to such foreign adversary controlled application by means of a subsequent determination pursuant to subsection (g)(3)(B).

“(f) RULE OF CONSTRUCTION.—Nothing in this division may be construed—

“(1) to authorize the Attorney General to pursue enforcement, under this section, other than enforcement of subsection (a) or (b);

“(2) to authorize the Attorney General to pursue enforcement, under this section, against an individual user of a foreign adversary controlled application; or

“(3) except as expressly provided herein, to alter or affect any other authority provided by or established under another provision of Federal law.

“(g) DEFINITIONS.—In this section:

“(1) CONTROLLED BY A FOREIGN ADVERSARY.—The term ‘controlled by a foreign adversary’ means, with respect to a covered company or other entity, that such company or other entity is—

“(A) a foreign person that is domiciled in, is headquartered in, has its principal place of business in, or is organized under the laws of a foreign adversary country;

“(B) an entity with respect to which a foreign person or combination of foreign persons described in subparagraph (A) directly or indirectly own at least a 20 percent stake; or

“(C) a person subject to the direction or control of a foreign person or entity described in subparagraph (A) or (B).

“(2) COVERED COMPANY.—

“(A) IN GENERAL.—The term ‘covered company’ means an entity that operates, directly or indirectly (including through a parent company, subsidiary, or affiliate), a website, desktop application, mobile application, or augmented or immersive technology application that—

“(i) permits a user to create an account or profile to generate, share, and view text, images, videos, real-time communications, or similar content;

“(ii) has more than 1,000,000 monthly active users with respect to at least 2 of the 3 months preceding the date on which a relevant determination of the President is made pursuant to paragraph (3)(B);

“(iii) enables 1 or more users to generate or distribute content that can be viewed by other users of the website, desktop application, mobile application, or augmented or immersive technology application; and

“(iv) enables 1 or more users to view content generated by other users of the website, desktop application, mobile application, or augmented or immersive technology application.

“(B) EXCLUSION.—The term ‘covered company’ does not include an entity that operates a website, desktop application, mobile application, or augmented or immersive technology application whose primary purpose is to allow users to post product reviews, business reviews, or travel information and reviews.

“(3) FOREIGN ADVERSARY CONTROLLED APPLICATION.—The term ‘foreign adversary controlled application’ means a website, desktop application, mobile application, or augmented or immersive technology application that is operated, directly or indirectly (including through a parent company, subsidiary, or affiliate), by—

“(A) any of—

“(i) ByteDance, Ltd.;

“(ii) TikTok;

“(iii) a subsidiary of or a successor to an entity identified in clause (i) or (ii) that is controlled by a foreign adversary; or

“(iv) an entity owned or controlled, directly or indirectly, by an entity identified in clause (i), (ii), or (iii); or

“(B) a covered company that—

“(i) is controlled by a foreign adversary; and

“(ii) that is determined by the President to present a significant threat to the national security of the United States following the issuance of—

“(I) a public notice proposing such determination; and

“(II) a public report to Congress, submitted not less than 30 days before such determination, describing the specific national security concern involved and containing a classified annex and a description of what assets would need to be divested to execute a qualified divestiture.

“(4) FOREIGN ADVERSARY COUNTRY.—The term ‘foreign adversary country’ means a country specified in section 4872(d)(2) of title 10, United States Code.

“(5) INTERNET HOSTING SERVICE.—The term ‘internet hosting service’ means a service through which storage and computing resources are provided to an individual or organization for the accommodation and maintenance of 1 or more websites or online services, and which may include file hosting, domain name server hosting, cloud hosting, and virtual private server hosting.

“(6) QUALIFIED DIVESTITURE.—The term ‘qualified divestiture’ means a divestiture or similar transaction that—

“(A) the President determines, through an inter-agency process, would result in the relevant foreign adversary controlled application no longer being controlled by a foreign adversary; and

“(B) the President determines, through an inter-agency process, precludes the establishment or maintenance of any operational relationship between the United States operations of the relevant foreign adversary controlled application and any formerly affiliated entities that are controlled by a foreign adversary, including any cooperation with respect to the operation of a content recommendation algorithm or an agreement with respect to data sharing.

“(7) SOURCE CODE.—The term ‘source code’ means the combination of text and other characters comprising the content, both viewable and nonviewable, of a software application, including any publishing language, programming language, protocol, or functional content, as well as any successor languages or protocols.

“(8) UNITED STATES.—The term ‘United States’ includes the territories of the United States.

“SEC. 3. JUDICIAL REVIEW.

“(a) RIGHT OF ACTION.—A petition for review challenging this division or any action, finding, or determination under this division may be filed only in the United States Court of Appeals for the District of Columbia Circuit.

“(b) EXCLUSIVE JURISDICTION.—The United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction over any challenge to this division or any action, finding, or determination under this division.

“(c) STATUTE OF LIMITATIONS.—A challenge may only be brought—

“(1) in the case of a challenge to this division, not later than 165 days after the date of the enactment of this division [Apr. 24, 2024]; and

“(2) in the case of a challenge to any action, finding, or determination under this division, not later than 90 days after the date of such action, finding, or determination.”

Executive Documents

DELEGATION OF AUTHORITY UNDER THE PROTECTING AMERICANS FROM FOREIGN ADVERSARY CONTROLLED APPLICATIONS ACT

Memorandum of President of the United States, July 24, 2024, 89 F.R. 60793, provided:

Memorandum for the Secretary of State[,] the Secretary of the Treasury[,] the Secretary of Defense[,] the

Attorney General[,] the Secretary of Commerce[,] the Secretary of Homeland Security[,] and] the Director of National Intelligence

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby order as follows:

SECTION 1. (a) I hereby delegate to the Attorney General, in consultation with the Secretary of the Treasury, the Secretary of Commerce, and the Secretary of Homeland Security, all authorities vested in the President by the Protecting Americans from Foreign Adversary Controlled Applications Act (Division H of Public Law 118-50) [set out as a note above].

(b) In exercising the authorities delegated in subsection (a) of this section, the Attorney General may, as appropriate, consult with the Director of National Intelligence and the heads of other relevant executive departments and agencies (agencies).

SEC. 2. (a) There is established a Committee for the Review of Foreign Adversary Controlled Applications (Committee), composed of the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Attorney General, the Secretary of Commerce, the Secretary of Homeland Security, and the Director of National Intelligence. Not later than 180 days after the date of this memorandum [July 24, 2024], the members of the Committee, through a process convened by National Security Council staff consistent with National Security Memorandum 2 of February 4, 2021 (Renewing the National Security Council System), shall determine rules and procedures sufficient for the Committee to exercise the authorities delegated to the Attorney General under section 1 of this memorandum. Upon conclusion of the 180-day period, the Committee shall exercise those authorities in accordance with such rules and procedures.

(b) The Director of National Intelligence and the heads of other relevant agencies, as the Attorney General under section 1 of this memorandum or the Committee under section 2 of this memorandum determines appropriate, shall provide assessments of the threat to national security posed by foreign adversary controlled applications in connection with the discharge of the responsibilities, respectively, of the Attorney General or the Committee. In providing such assessments, the Director of National Intelligence shall solicit and incorporate the views of the Intelligence Community, as appropriate.

SEC. 3. The Attorney General is authorized and directed to publish this memorandum in the Federal Register.

J.R. BIDEN, JR.