

IN THE CIRCUIT COURT OF UNION COUNTY, ARKANSAS
SIXTH DIVISION

STATE OF ARKANSAS, *ex rel.*
TIM GRIFFIN, ATTORNEY
GENERAL

PLAINTIFF

Case No. 70CV-23-135

v.

TIKTOK INC.; TIKTOK PTE.
LTD.; BYTEDANCE INC.; and,
BYTEDANCE LTD.

DEFENDANTS

SECOND AMENDED COMPLAINT

I. INTRODUCTION

1. Defendants market and operate the social media platform TikTok, which is widely popular in Arkansas.

2. For years, Defendants have misled Arkansas users of TikTok into believing that the personal data they share with Defendants is safe from interception by the Chinese government, violating the Arkansas Deceptive Trade Practices Act (“ADTPA”), Ark. Code Ann. § 4-88-101, *et. seq.*

3. The State brings this consumer protection action to redress and restrain Defendants’ violations of the ADTPA and to seek an order for an injunction, imposing civil penalties, restitution, and all other equitable relief to which the State is entitled.

II. JURISDICTION AND VENUE

4. This Court has jurisdiction over this matter under Ark. Code Ann. § 4-88-104 and

the common law of the State of Arkansas.

5. Within the five years preceding the State’s original complaint, Defendants purposefully operated and directed the operation of TikTok, a social media application (“app”) and platform in the State of Arkansas. The TikTok app has been activated by a device located in Arkansas hundreds of thousands of times. Each TikTok app activation or use collects data from the device and account of the user.

6. Defendants use data collected from Arkansas users, including location-based data, to serve content directly to users in Arkansas. This location [REDACTED]
[REDACTED]
[REDACTED],” and Defendants serve content to Arkansans based on the geographic location of those users.²

7. TikTok enters into advertising contracts with Arkansas businesses and receives revenue directly from entities located in the State of Arkansas who advertise on the TikTok platform to users of that platform, which include users with Arkansas-based IP addresses.

8. Defendants have availed themselves of the financial rewards of operating within the State of Arkansas. For the period of May 1 through August 31, 2023, Defendants reported to the Arkansas Department of Finance and Administration taxable sales in Arkansas of [REDACTED]

1 [REDACTED]

2 [REDACTED]

and state and local remittances of vendor use taxes totaling [REDACTED].

9. Defendants also have employees located in Arkansas. In 2021, TikTok, Inc. employed [REDACTED] persons in Arkansas with combined wages of [REDACTED]. In 2022, TikTok, Inc. employed [REDACTED] persons in Arkansas with combined wages of [REDACTED].

10. TikTok pays Creators in Arkansas for the content they create.³ Any user who self-reports being eighteen years of age or older may become a Creator if they have 10,000 followers and 100,000 views each month. Popular TikTok influencers also collect gifts from other users that can be withdrawn from TikTok and transferred out as usable currency to PayPal or other platforms.

11. When Arkansas users register to use the TikTok app, they enter a contract with TikTok, known as the Terms of Service. Under the contract, users gain access to the TikTok app and platform, which they download as a digital product and use as an entertainment service. In consideration of those benefits, users “acknowledge and agree that [TikTok] may generate revenues, increase goodwill or otherwise increase [its] value from your use of the [TikTok] Services, including, by way of example and not limitation, through the sale of advertising, sponsorships, promotions, usage data and Gifts..., and...[users] will have no right to share in any such revenue, goodwill or value whatsoever.”⁴ TikTok users further “grant [TikTok] a royalty-free license to use [their] name, image, voice, and likeness to identify [them] as the source of any of [their] User Content,” and this includes “the right to use [their] User Content without the obligation to pay royalties to any third party.” *Id.* Hundreds of thousands of Arkansans have agreed

³ See, e.g., *TikTok Creator Fund Terms*, TIKTOK (last visited July 10, 2024), <https://bit.ly/3WhglhS>.

⁴ *Terms of Service*, TIKTOK (last visited July 10, 2024), <https://bit.ly/3RG602u>.

to TikTok's Terms of Service contract.

12. TikTok's Terms of Service also incorporate TikTok's Privacy Policy.⁵ Through the Terms of Service and Privacy Policy, TikTok receives its users' permission to "automatically collect certain information," including "your IP address" and "geolocation-related data."⁶

13. Defendants have availed themselves of the financial rewards of operating within the State of Arkansas through the marketing and sale of advertising. Defendants can attribute millions of dollars in revenue to activities within the State of Arkansas.

14. Not only are Defendants deploying their services to Arkansas residents and businesses in order to do business *within the State*, but Defendants are also actively doing business *with the State*. In recent years, Defendants have sold \$284,967.06 in advertising to the Arkansas Department of Health that was, in part, estimated to reach 500,000 English-speaking TikTok users ages 13–24 located in the State of Arkansas in one instance and 300,000 TikTok users ages 16–24 located in the State of Arkansas in another.⁷ These advertisements geographically targeted TikTok users located in the State of Arkansas.⁸

15. Defendants have also chosen to sue the State in federal court in Arkansas. TikTok, through its membership in NetChoice, LLC, a trade association for internet companies of which

⁵ See *TikTok Privacy Policy*, TIKTOK (last visited July 10, 2024), <https://bit.ly/3OXgKGH>.

⁶ *TikTok Privacy Policy*, *supra* note 5.

⁷ These are the preliminary figures showing the amount of Arkansas taxpayer dollars which the State has been able to determine it has paid to Defendants as well as the number of Arkansas citizens viewing the video content. The State reserves the right to furnish the Court with a more accurate figure upon the completion of discovery.

⁸ The State continues to investigate such purchases and specifically reserves the right to further amend its complaint to reflect new revelations.

they are members, has invoked the jurisdiction of courts in Arkansas and sought the assistance and protection of courts in Arkansas in resolving a dispute with the State. *See* Complaint, Doc. 2, *NetChoice, LLC v. Griffin* No. 5:23-cv-05105, 2023 WL 5660155 (W.D. Ark. Aug. 31, 2023).

16. [REDACTED]

17. This Court has personal jurisdiction over Defendants under Ark. Code Ann. § 16-4-101(B) because Defendants conduct business in the State of Arkansas, purposely directed their actions toward the State of Arkansas and its citizens residing within the State, and purposefully availed themselves of the benefits of transacting business within Arkansas and with its citizens, such that Defendants have accumulated the requisite minimum contacts with Arkansas necessary to permit the Court to exercise its jurisdiction.

18. Venue is proper under Ark. Code Ann. §§ 4-88-104, 4-88-112, 16-60-103, and the

common law of the State of Arkansas.

19. The ADTPA prohibits, among other things, “[e]ngaging in any . . . unconscionable, false, or deceptive act or practice in business, commerce, or trade,” or “[k]nowingly facilitating, assisting, intermediating, or in any way aiding the operation or continuance of an act or practice that is in violation of” the ADTPA. Ark. Code Ann. § 4-88-107(a)(10), (12).

20. The ADTPA also prohibits “[t]he concealment, suppression, or omission of any material fact with intent that others rely upon the concealment, suppression, or omission” “in connection with the sale or advertisement of any goods [or] services,” Ark. Code Ann. § 4-88-108(a)(2).

21. Finally, the ADTPA prohibits “[t]he act, use, or employment by a person of any deception, fraud, or false presentence” when “utilized in connection with the sale or advertisement of any goods or services.” Ark. Code Ann. § 4-88-108(a)(1).

22. Defendants are “[p]erson[s]” and the TikTok app is a “[s]ervice[.]” as defined by Ark. Code Ann. § 4-88-102(5) and (7), because the app is a “thing[] purchased that do[es] not have physical characteristics.” Additionally, by offering the TikTok app for general consumers on multiple platforms, Defendants are engaged “in business, commerce, or trade.” Ark. Code Ann. § 4-88-107(a)(10).

23. The State’s claims arise exclusively under Arkansas law and do not involve an issue of federal law. In any event, the State forswears any claim to relief in this action on any theoretical basis of federal law.

III. PARTIES

24. Plaintiff is the State of Arkansas, *ex rel.* Tim Griffin, Attorney General. Pursuant to Ark. Code Ann. §§ 4-88-104 and 4-88-113, the State may seek civil enforcement of the ADTPA.

25. Defendant TikTok Inc. is a for-profit entity incorporated in the State of California

that operates a social media application and platform known as “TikTok.” TikTok Inc. is headquartered at 5800 Bristol Pkwy, Culver City, CA, 90230-6696. TikTok Inc. has a valuation of at least \$50–75 billion. TikTok Inc. made nearly \$4 billion in revenue in 2021 and an estimated \$10–12 billion in 2022.

26. Defendant TikTok Pte. Ltd. is a related corporate entity, which is headquartered at 8 Marina View, #43–00, Asia Square Tower 1, Singapore 018960. TikTok Pte. Ltd. is nominally listed on the Apple App Store, Google Play Store, and Microsoft Store.

27. Defendant ByteDance Inc. is a for-profit entity incorporated in the State of Delaware. ByteDance is headquartered at 250 Bryant St, Mountain View, CA, 94041.

28. Defendant ByteDance Ltd. is a multinational internet technology holding company and is the parent company of TikTok Inc., TikTok Pte. Ltd., and ByteDance Inc. ByteDance Ltd. is headquartered in Room 503 5F, Building 2, 43 North Third Ring West Road, Beijing, 100086 China and registered in the Cayman Islands at C/O Vistra (Cayman) Limited, P. O. Box 31119, Grand Pavilion, Hibiscus Way, 802 West Bay Road, Grand Cayman, KY1 – 1205. ByteDance Ltd. is valued at more than \$400 billion. ByteDance Ltd. reported \$58 billion in revenue in 2021.

29. There is no separation between and among the ByteDance and TikTok Defendant entities. ByteDance Ltd. exercises control over TikTok Inc., TikTok Ltd., TikTok Pte. Ltd., and ByteDance Inc., which are its alter egos. ByteDance Ltd. created and maintains ownership of TikTok’s algorithm.

IV. FACTUAL ALLEGATIONS

30. TikTok is a social media platform that centers on short videos created and uploaded by users. Most TikTok users interact with the platform through an app that users download from the Apple App Store, the Google Play Store, or the Microsoft Store.

31. TikTok users register and create a profile to access the platform. In doing so,

TikTok users provide information about themselves, including their birthdays and contact information.

32. When Arkansas consumers use the TikTok platform, TikTok automatically collects their “IP address, geolocation-related data, unique device identifiers, browsing and search history . . . and Cookies.”⁹ Prior versions of the policy noted that TikTok also collected GPS information from U.S. users, while the most recent version states that “current versions” of TikTok no longer do so.¹⁰

33. TikTok also collects other information about users’ phones, including biometric information and “user agent, mobile carrier, time zone settings, identifiers for advertising purposes, model of [their] device, the device system, network type, device IDs, [their] screen resolution and operating system, app and file names and types, keystroke patterns or rhythms, battery state, audio settings and connected audio devices.”¹¹

34. TikTok tracks Arkansas consumers across their devices and across the internet. Specifically, when users “log-in from multiple devices, [TikTok] will be able to use [their profile] information such as [their] device ID and user ID to identify [their] activity across devices. [TikTok] may also associate [them] with information collected from devices other than those [they] use to log-in to the Platform.” Further, TikTok collects information from third-party websites like Cerebral, which admitted to sending health information of its patients to TikTok.¹²

⁹ *TikTok Privacy Policy*, *supra* note 5.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*; see also E. Roth, *Cerebral admits to sharing patient data with Meta, TikTok, and Google*, THE VERGE (Mar. 11, 2023), <https://bit.ly/3ZJbOJw>.

35. TikTok also collects “text, images, and videos, found in [their] device’s clipboard,” their phone’s contacts, and other social network contacts.¹³

**Defendants Falsely Tell Arkansas Consumers That
Their Data Is Safe From Interception by the Chinese Government**

36. TikTok is owned and controlled by ByteDance Ltd., a Chinese company, founded and largely run by Chinese nationals, and headquartered in China.

37. Defendants have misled and continue to mislead the public on the TikTok website, in interviews, and whenever they are asked direct questions about the risk of Chinese government access to consumer data.

38. TikTok states on its website: “[N]one of our data is subject to Chinese law.”¹⁴ TikTok has made this claim since at least 2019 and continues to make this misleading claim on its website as of this writing.

39. TikTok also says on its website: “We store all TikTok US user data in the United States, with backup redundancy in Singapore. Our data centers are located entirely outside of China.”¹⁵

40. In a 2020 interview, TikTok’s former Global Security Officer Roland Cloutier stated: “Neither TikTok data, nor use, occurs in China, so therefore [the Chinese government] does not have jurisdiction over the platform. It’s pretty simple. The data doesn’t even exist in China.” When asked, “So if I understand this 100% correctly, because TikTok user data is stored in the

¹³ *Id.*

¹⁴ *Statement on TikTok’s content moderation and data security practices*, TIKTOK (Oct. 24, 2019), <https://bit.ly/3VQH2M>.

¹⁵ *Id.*

United States, none of that is subject to Chinese law, right?” Mr. Cloutier answered, “Correct.”¹⁶

41. In a March 2022 interview, TikTok CEO Shou Zi Chew was asked, “Is it true that your data is subject to being given to or you’re forced to give it to the Chinese government?” and he responded, “We disagree with that. The way it is set up today—first of all TikTok is not available for download in China. It operates outside of China. The data for TikTok users is stored in Virginia and in Singapore.”¹⁷

42. TikTok also points to a plan it calls “Project Texas,” saying that it will “ensure that the data of all Americans is stored in America and hosted by an American headquartered company,” and that it “ha[s] contracted with Oracle, an industry leader in cloud-based services, to store TikTok’s U.S. user data.”¹⁸ TikTok says “100% of U.S. user traffic is routed to the Oracle and TikTok U.S. Data Security (‘USDS’) infrastructure.”¹⁹

43. TikTok also says: “We employ rigorous access controls and a strict approval process overseen by our U.S.-based leadership team, including technologies like encryption and security monitoring to safeguard sensitive user data.”²⁰

¹⁶ J. Stone, *TikTok’s security boss makes his case. Carefully.*, CYBERSCOOP (Aug. 27, 2020), <https://bit.ly/3WRU9OL>.

¹⁷ See David Rubenstein, *Interview of TikTok CEO Shou Zi Chew*, YOUTUBE (Mar. 3, 2022) at 13:09-13:55, <https://bit.ly/3WRUJMr>.

¹⁸ *Written Testimony of Shou Chew, CEO, TikTok, Inc., Before the U.S. House Comm. on Energy and Commerce*, 118th Cong., 1st Session (Mar. 23, 2023), available at <https://bit.ly/3JNXNnd>.

¹⁹ *Safeguarding U.S. User Data*, TIKTOK (last visited July 10, 2024), <https://bit.ly/4cUxtET>.

²⁰ See, e.g., S. Rodriguez, *TikTok insiders say social media company is tightly controlled by Chinese parent ByteDance*, CNBC (June 25, 2021), <https://cnb.cx/3NYLiXS>.

44. Similarly, CEO Shou Zi Chew has said: “[W]e believe that we have a very rigorous and robust system to protect the data security of our users.”²¹

45. TikTok also claims that “as of January 2023, all access to systems containing *new* protected U.S. user data has been exclusively controlled by USDS, and all access to the *new* protected data is limited to approved USDS employees.” (Emphasis added.)²²

46. TikTok also has repeatedly claimed: “TikTok has never shared, or received a request to share, U.S. user data with the Chinese government. Nor would TikTok honor such a request if one were ever made.”²³

47. These statements are intended to deceive consumers about risks to their personal information, and many of them are outright false. Taken together, these statements leave consumers with the misimpression that their data is safe and that it is not at risk of access and exploitation by Chinese authorities.

**Chinese Citizens and Entities are Subject to Chinese Law and
Must Comply With Demands For Information from the Chinese Government**

48. Despite Defendants’ efforts to downplay the risks, TikTok’s U.S. user data is extremely vulnerable under the Chinese legal and regulatory regime. Chinese law provides that Chinese authorities may access private data in secret, and Chinese authorities apply these laws to Chinese citizens and to any data in which they believe China has a national security interest, no

²¹ See *Interview of TikTok CEO Shou Zi Chew*, *supra* note 17.

²² *Written Testimony of Shou Chew*, *supra* note 18 (emphasis added).

²³ *Written Testimony of Shou Chew*, *supra* note 18 (emphasis added); see also *Statement on the Administration’s Executive Order*, TIKTOK (Aug. 7, 2020), <https://bit.ly/3G5m2wZ>; D. McCabe, *Lawmakers Grill TikTok Executive About Ties to China*, N.Y. TIMES (Sept. 14, 2022), <https://nyti.ms/462eE0w>; A. Kharpal, *US ‘looking at’ banning TikTok and Chinese social media apps*, POMPEO SAYS, CNBC (July 7, 2020), <https://cnb.cx/4eUY4n7>.

matter where the Chinese citizen or the data is located.

49. Anyone subject to Chinese law is required to cooperate with Chinese authorities, including China's intelligence and security services, and there is no way to resist these requirements.²⁴ Many of Defendants' leaders and employees are Chinese citizens or are located in China and subject to this control.

50. China can use its laws to force Defendants or their employees subject to Chinese law to hand over consumers' data in secret regardless of where the data is stored.

**Arkansas TikTok Users' Data Is Accessible By People
and Entities Subject to Chinese Law**

51. People who are subject to Chinese law, including those working for ByteDance, can and do access TikTok's U.S. user data.²⁵

52. [REDACTED]

²⁴ See, e.g., K. Kitchen, *The Chinese Threat to Privacy*, AM. FOREIGN POL'Y COUNCIL, Issue 30, at 23 (May 2021), <https://bit.ly/3A0bDyX>; W. Knight, *TikTok a Year After Trump's Ban: No Change, but New Threats*, WIRED (July 26, 2021), <https://bit.ly/3LPN51z>, (quoting K. Frederick, Director of the Tech Policy Center at the Heritage Foundation); K. Frederick, et al., *Beyond TikTok: Preparing for Future Digital Threats*, WAR ON THE ROCKS (Aug. 20, 2020), <https://bit.ly/3WFF3fg>; J. Barnes, *White House Official Says Huawei Has Secret Back Door to Extract Data*, N.Y. TIMES (Feb. 11, 2020), <https://nyti.ms/3udZHpH> (quoting former National Security Advisor Robert O'Brien); A. Kharpal, *Huawei says it would never hand data to China's government. Experts say it wouldn't have a choice*, CNBC (Mar. 4, 2019), <https://cnb.cx/3Gmno6T> (quoting NYU Professor of Law Emeritus and Director of the U.S.-Asia Law Institute J. Cohen and M. Thorley, postdoctoral research fellow at the University of Exeter with experience building a business in China); F. Ryan, et al., *TikTok and WeChat: Curating and controlling global information flows*, AUSTRALIAN STRATEGIC POL'Y INST., 36 (Sept. 1, 2020), <https://bit.ly/3hm26vq>; D. Harwell & T. Romm, *Inside TikTok: A culture clash where U.S. views about censorship often were overridden by the Chinese bosses*, WASH. POST (Nov. 5, 2019), <https://wapo.st/3WPMX5S> (quoting Alex Stamos, Director of the Stanford Internet Observatory).

²⁵ Letter from Shou Zi Chew, CEO, TikTok to the Hon. Marsha Blackburn, Roger Wicker, John Thune, Roy Blunt, Ted Cruz, Jerry Moran, Shelley Moore Capito, Cynthia Lummis, and Steve Daines, U.S. Senate (June 30, 2022), <https://bit.ly/3hqccLL> ("June 2022 Letter to U.S. Senators"); Cloutier Decl. ¶ 10, Doc. 15-2, *TikTok Inc. v. Trump*, No. 20-cv-02658 (D.D.C. Sept. 23, 2020).

[REDACTED]

[REDACTED]

Further, “a member of TikTok’s Trust and Safety department in a September 2021 meeting” said, “[e]verything is seen in China,” and in another meeting, an employee “referred to one Beijing-based engineer as a ‘Master Admin’ who ‘has access to everything.’”²⁶

53. One former ByteDance executive even claims that Chinese authorities have their own access to U.S. user data via a “backdoor channel” and that ByteDance permits such access for fear of the Chinese government banning apps the company offers in China.²⁷

54. [REDACTED]

[REDACTED]

[REDACTED]

.²⁸

55. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

²⁶ E. Baker-White, *Leaked Audio From 80 Internal TikTok Meetings Shows that US User Data has been Repeatedly Accessed from China*, BUZZFEED NEWS (June 17, 2022), <https://bit.ly/3u8Eb5N>.

²⁷ First Am. Compl., at ¶18-19, *Yu v. ByteDance, Inc.*, No. CGC-23-606246 (Super. Ct. San Francisco Cnty. May 12, 2023).

²⁸ [REDACTED]

[REDACTED]

[REDACTED]

56. Private U.S. consumer data also has been shared on Lark platforms, ByteDance’s proprietary software, including in groups accessed by employees based in China.³⁰ Data shared over Lark has included U.S. driver’s licenses, child sexual abuse material, photos, IP addresses, and other personal information.³¹

57. [REDACTED]

[REDACTED]

[REDACTED]

58. TikTok’s privacy policy also permits “certain entities within our corporate group” to access U.S. data.³² Similarly, prior to March 21, 2023, TikTok’s privacy policy stated it may share U.S. data with ByteDance “or other affiliate of our corporate group.”

59. Although the privacy policy does not inform consumers of this fact, TikTok’s parent company ByteDance and many affiliates (who are “entities within [the] corporate group”) and their employees are located in China or are Chinese citizens and thus are subject to Chinese

²⁹ In an August 2023 report, the Australian Senate Select Committee on Foreign Interference in Social Media concluded TikTok was either unwilling or *unable* to disclose how often China-based employees had accessed Australian user data. *Select Committee on Foreign Interference through Social Media* at 153, COMMONWEALTH OF AUSTRALIA (2023) (“Australian Committee Report”).

³⁰ S. Maheshwari & R. Mac, *Driver’s Licenses, Addresses, Photos: Inside How TikTok Shares User Data*, N.Y. TIMES (May 24, 2023), <https://nyti.ms/43SIemu> (“Lark data from TikTok was also stored on servers in China as of late last year”).

³¹ *Id.*

³² *TikTok Privacy Policy*, *supra* note 5.

law.³³

60. TikTok’s statements that Chinese law does not apply to U.S. user data are false and deceptive.

61. One affiliate of TikTok is Beijing Douyin Information Service Co. Limited, formerly known as Beijing ByteDance Technology Co. Ltd., a China-based subsidiary of ByteDance.³⁴

62. Beijing Douyin Information Service Co. Limited is subject to Chinese law, and to direct control and influence by the Chinese government by virtue of state ownership.

63. Beijing Douyin Information Service Co. Limited is 1% owned by a Chinese State-owned enterprise, “Wangtou Zhongwen (Beijing) Technology, which is owned by the China Internet Investment Fund (controlled by the Cyberspace Administration of China and the Ministry of Finance), China Media Group, and Beijing Municipality Cultural Investment Development Group.”³⁵ This state entity also sits on the board of Beijing Douyin Information Service Co. Limited.

³³ See, e.g., *TikTok owner to ‘strictly’ obey China’s tech takeover law*, BBC NEWS (Aug. 31, 2020), <https://bbc.in/3UqgfX8>; S. Hoffman, *The U.S. and China Data Fight is Only Getting Started*, FOREIGN POLICY (July 22, 2021), <https://bit.ly/3Uwxi00> (“The Chinese Communist Party has absolute power over China-based companies, which its laws—like the 2021 Data Security Law, 2015 National Security Law, 2016 Cybersecurity Law, or 2017 National Intelligence Law—have reinforced.”); PATRICIA M. FIGLIOLA, CONG. RSCH. SERV., R46543, TIKTOK: TECHNOLOGY OVERVIEW AND ISSUES, at Summary (Dec. 4, 2020), <https://bit.ly/3G8YGGX> (“ByteDance, as with all technology companies doing business in China, is subject to Chinese laws that require companies operating in the country to turn over user data when asked by the Chinese government.”).

³⁴ June 2022 Letter to U.S. Senators, at 6; *The Truth About TikTok: Separating Fact from Fiction*, TIKTOK (last visited July 10, 2024), <https://bit.ly/3WfiHTQ>.

³⁵ *Id.*; U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION, 2021 REPORT TO CONGRESS, at 135–36, n. † (Nov. 2021) (“2021 Commission Report”), <https://bit.ly/3gOwYFf>.

64. In China, even a minority stake in a private company “makes any state-invested enterprise subject to Beijing’s influence and control, no matter how small its investment,” because “Chinese law already affords the state privileged status in the governance of any corporation for which it is a shareholder.”³⁶

65. TikTok states that employees of Beijing Douyin Information Service Co. Limited “are restricted from U.S. user database access.”³⁷ But that company is an “affiliate” of TikTok under its privacy policy.³⁸

**Defendants Mislead and Deceive Arkansas
Consumers about the Storage of their Data**

66. When questioned about whether the Chinese government may access U.S. user data, TikTok has often stated that the data is stored in the U.S. and Singapore.³⁹ However, this answer is deceptive because the location of data storage does not negate the application of Chinese law to that data or the people who have access to it.

67. These statements are deceptive in multiple ways. As noted above, the location of data storage does not negate the application of Chinese law to that data or the people who have access to it.

68. TikTok’s statements are also deceptive because they do not disclose that at least

³⁶ 2021 Commission Report, at 9.

³⁷ June 2022 Letter to U.S. Senators, at 6.

³⁸ Press Release, Sen. Ted Cruz, Sen. Cruz to TikTok Official: ‘You Have Dodged the Questions More Than Any Witness I Have Seen in My Nine Years Serving in the Senate,’ (Oct. 26, 2021), <https://bit.ly/3Un3yLL>.

³⁹ *Statement on TikTok’s content moderation and data security practices*, *supra* note 14; R. Zhong, *TikTok’s Chief is on a Mission to Prove it’s Not a Menace*, N.Y. TIMES (Nov. 18, 2019), <https://nyti.ms/3WXmWl0>; C. Porterfield, *U.S. Army Bans Soldiers from Using TikTok*, FORBES (Jan. 2, 2020), <https://bit.ly/3WVOOGj>.

some of this data is or was, at least as of 2020, located on servers owned and operated by ByteDance or stored with Alibaba—both Chinese companies subject to Chinese law.

69. To tell Arkansas consumers that the data is stored in data centers in the U.S. and Singapore, but omit the identity of the owners, operators, and hosts of the servers, paints the false picture that their data is not at risk of access by Chinese authorities.

70. TikTok also deceives Arkansas consumers about the storage of their data when it says that it does not store U.S. user data in China and that the data “does not exist” in China.

71. In reality, an internal document drafted by a member of ByteDance’s Internal Audit team indicates that even when using data centers located outside China, “it is impossible to keep data that should not be stored in [China] from being retained in [China]-based servers.”⁴⁰ The risk assessment flagged [REDACTED]

72. Defendants’ information stored on Chinese servers in China also includes information associated with, and shared through, ByteDance’s proprietary software called Lark.⁴¹ U.S. user data has been shared over Lark platforms.⁴²

73. TikTok claims its data storage arrangement with Oracle will resolve all

⁴⁰ E. Baker-White, E. Baker-White, *TikTok Parent ByteDance Planned to Use TikTok to Monitor the Physical Location of Specific American Citizens*, FORBES (Oct. 20, 2022), <https://bit.ly/3UIRFR9>

⁴¹ *Driver’s Licenses, Addresses, Photos: Inside How TikTok Shares User Data*, *supra* note 30 (“Lark data from TikTok was also stored on servers in China as of late last year”); [REDACTED]

⁴² *Id.*

“reasonable” concerns about the security of U.S. user data.⁴³ But TikTok has not committed to ending access by people and entities subject to Chinese law.⁴⁴

74. TikTok’s elaborate efforts to alter its data storage and security practices are a tacit admission that its prior, much-touted practices were inadequate to protect U.S. consumers’ data.

75. For all the above reasons, TikTok U.S. user data is subject to Chinese law, and it is at clear risk of access and exploitation by the Chinese government. Defendants’ public claims to the contrary are false, deceptive, and misleading.

TikTok’s Privacy Policy is Deceptive Because it Does Not Disclose that Arkansans’ User Data May Be Shared with People in China

76. TikTok’s privacy policy is a consumer-oriented communication that is available to Arkansas consumers through a clear link on TikTok’s page in the App Store.

77. Public reporting shows that prior to sometime in 2019, TikTok’s U.S. privacy policy stated: “We will also share your information with any member of our affiliate group, in China....”⁴⁵

78. Until recently, TikTok’s U.S. privacy policy stated: “We may share all of the information we collect with a parent, subsidiary, or other affiliate of our corporate group.” Similarly, as of March 21, 2023, TikTok’s U.S. privacy policy stated: “As a global company, the

⁴³ D. Harwell & E. Dvoskin, *As Washington wavers on TikTok, Beijing exerts control*, WASH. POST (Oct. 30, 2022), <https://wapo.st/43uHUuI>; June 2022 Letter to U.S. Senators at 4.

⁴⁴ *Social Media’s Impact on Homeland Security*, U.S. SENATE COMM. ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS, at 2:38:55 (Sept. 14, 2022), <https://bit.ly/3P5kuWd>; B. Fung, *TikTok won’t commit to stopping US data flows to China*, CNN (Sept. 14, 2022) <https://cnn.it/3G5beis>; McCabe, *supra* note 23; *Written Testimony of Shou Chew*, *supra* note 18 (noting there will be “limited exceptions” that allow non-USDS employees to access protected data).

⁴⁵ D. Carroll, *Is TikTok a Chinese Cambridge Analytica data bomb waiting to explode?*, QUARTZ (May 7, 2019) <https://bit.ly/3zDuAqO>.

Platform is supported by certain entities within our corporate group, which are given limited remote access to Information We Collect.”⁴⁶

79. TikTok’s U.S. privacy policy further states: “TikTok may transmit your data to its servers or data centers outside of the United States for storage and/or processing. Other entities with whom TikTok may share your data as described herein may be located outside of the United States.”⁴⁷ However, the word “China” does not appear in this or any of the recent versions of TikTok’s U.S. Privacy Policy, which applies to Arkansas consumers.

80. Thus, neither of those versions of TikTok’s U.S. Privacy Policy have specifically alerted Arkansas consumers to TikTok’s ability to share their data with people and entities located in China or otherwise subject to Chinese law.

81. TikTok has updated its *European* privacy policy to clearly state that it permits individuals located in a list of countries outside of Europe, specifically including China, to access European user data.⁴⁸

82. TikTok also deceives Arkansas consumers because, in omitting the word “China” from its privacy policy, TikTok fails to comply with Apple and Google’s requirements for application developers to be transparent about how data is collected and used, which is required by both app stores.

**Defendants Publicly Downplay ByteDance’s Control
Over TikTok and the Chinese Government’s Leverage Over ByteDance**

83. TikTok deceptively downplays the significant influence and control that its parent

⁴⁶ *TikTok Privacy Policy*, *supra* note 5.

⁴⁷ *Id.*

⁴⁸ E. Fox, *Sharing an Update to our Privacy Policy*, TIKTOK (last visited July 10, 2024), <https://bit.ly/3WiljV>.

company, ByteDance Ltd., has over TikTok, and the leverage that Chinese authorities have over ByteDance.

84. TikTok documents show that TikTok’s “messaging” strategy calls for company representatives to “[d]ownplay the parent company ByteDance, downplay the China association, downplay AI.”⁴⁹ TikTok representatives act in lockstep with this strategy. They repeatedly downplay and sidestep TikTok’s connections to its Chinese parent company and “the China association.”

85. In a public hearing before the U.S. Senate Committee on Homeland Security and Governmental Affairs, COO Vanessa Pappas admitted that “ByteDance is founded in China,” but claimed “we do not have an official headquarters as a global company.”⁵⁰

86. TikTok’s public statements stress the independence of the company’s leadership from ByteDance. Those statements include, but are not limited to:

- “TikTok’s CEO has full autonomy for all decisions about TikTok’s operations.”⁵¹
- “TikTok is led by its own global CEO, Shou Zi Chew, a Singaporean based in Singapore.”⁵²
- “TikTok is led by an American CEO, with hundreds of employees and key leaders

⁴⁹ C. Stokel-Walker, *Inside TikTok’s Attempts to ‘Downplay the China Association’*, GIZMODO (July 27, 2022), <https://bit.ly/3EV8XnY>.

⁵⁰ McCabe, *supra* note 23.

⁵¹ E. Baker-White, *Inside Project Texas, TikTok’s Big Answer to US Lawmakers’ China Fears*, BUZZFEED (Mar. 11, 2022), <https://bit.ly/3AU26tD>.

⁵² June 2022 Letter to U.S. Senators, at 5.

across safety, security, product, and public policy here in the U.S.”⁵³

- “Since May 2020, TikTok management has reported into the CEO based in the U.S., and now Singapore, who is responsible for all long-term and strategic day-to-day decisions for the business.”⁵⁴

87. TikTok also asserts its independence from ByteDance control in its content moderation and data security practices.⁵⁵ TikTok states on its website, “[W]e have a dedicated technical team focused on adhering to robust cybersecurity policies, and data privacy and security practice,” and “[o]ur US moderation team, which is led out of California, reviews content for adherence to our US policies.”⁵⁶

88. Tik Tok also downplays its connection to China by dismissing Chinese Communist Party presence and influence within ByteDance as unimportant or irrelevant.

89. When asked during a Senate hearing whether TikTok or ByteDance employ members of the Chinese Communist Party, TikTok’s COO Vanessa Pappas did not directly answer, stating that no one who “makes a strategic decision at this platform” is a member of the Party.⁵⁷ When asked whether anyone with access to TikTok’s U.S. user data is a member of the

⁵³ A. Kharpal, *supra* note 23.

⁵⁴ Rodriguez, *supra* note 20.

⁵⁵ June 2022 Letter to U.S. Senators, at 3; *Statement on TikTok’s content moderation and data security practices*, *supra* note 14.

⁵⁶ *Id.*

⁵⁷ Full Committee Hearing, *Social Media’s Impact on Homeland Security*, U.S. SENATE COMM. ON HOMELAND SEC. & GOVERNMENTAL AFFS., at 3:15:18 (Sept. 14, 2022), <https://bit.ly/3Q3OjZg> (“Senate Hearing”); E. Baker-White, *No TikTok Leaders have Ties to the Chinese Communist Party, COO Says in Heated Senate Hearing*, FORBES (Sept. 14, 2022), <https://bit.ly/BoEg>.

Party, Ms. Pappas said merely, “I wouldn't be able to tell you the political affiliation of any individual.”⁵⁸

90. TikTok’s efforts to downplay its connection to China are designed to, and have the effect of, conveying to Arkansas consumers that the risk of their data being accessed and exploited by Chinese authorities is minimal to nonexistent.

**Contrary to Defendants’ Public Representations,
ByteDance Exercises Significant Control over TikTok**

91. ByteDance Ltd. owns and controls TikTok.

92. TikTok’s algorithm was created by ByteDance and contains “some of the same underlying basic technology building blocks” as ByteDance’s Chinese version of the app operating in China, known as Douyin.⁵⁹

93. TikTok’s algorithm still belongs to ByteDance, which declined to sell the technology to a U.S. company.⁶⁰

94. ByteDance “plays a role in the hiring of key personnel at TikTok.”⁶¹

95. High-level ByteDance employees have served in dual roles for ByteDance and for TikTok Inc.

⁵⁸ Senate Hearing, *supra* note 57, at 3:14:24; A. Smith, *GOP senator calls on Yellen to ‘ensure’ TikTok severs its connections to China*, NBC (Sept. 19, 2022), <https://nbcnews.to/3ixsYJH>.

⁵⁹ June 2022 Letter to U.S. Senators, at 4.

⁶⁰ Z. Xin & T. Qu, *TikTok’s algorithm not for sale, ByteDance tells US*, S. CHINA MORNING POST (Sept. 13, 2020), <https://bit.ly/3Uje9HQ>.

⁶¹ June 2022 Letter to U.S. Senators, at 5; *see also* D. Harwell & E. Dwoskin, *As Washington Wavers on TikTok, Beijing Exerts Control*, *supra* note 43 (noting that managers in Beijing are “even the final decision-makers on human resources matters, such as whether an American employee can work remotely”).”

96. In April 2021, TikTok’s current CEO, Shou Zi Chew, was named as CEO of TikTok while also serving as CFO of ByteDance Ltd.⁶² He reports to the CEO of ByteDance.⁶³

97. The LinkedIn profiles of multiple other TikTok employees with a variety of responsibilities, from human resources to engineering, show they exercise dual or additional roles at ByteDance.

98. Those in senior leadership at TikTok at times have secondary reporting relationships to ByteDance executives, or have their primary management seated in ByteDance and only a secondary reporting relationship with the TikTok CEO.⁶⁴

99. As of March 2022, TikTok’s U.S.-based personnel who will have access to TikTok data pursuant to its new arrangement with Oracle “report to middle managers in the United States, who report to a ByteDance executive in China.”⁶⁵

100. TikTok’s Internal Audit team also reports to ByteDance’s Internal Audit and Risk Control Department, led by an executive located in Beijing.⁶⁶

101. ByteDance’s Internal Audit and Risk Control Department has investigated TikTok

⁶² *TikTok Names CEO and COO*, TIKTOK (Apr. 30, 2021), <https://bit.ly/3OVyvWh>; R. Mac & C. Che, *TikTok’s CEO Navigates the Limits of His Power*, N.Y. TIMES (Sept. 16, 2022), <https://nyti.ms/3OT6grk>.

⁶³ *Written Testimony of Shou Chew*, *supra* note 18.

⁶⁴ Rachel Lee, et al., *TikTok, ByteDance, and their ties to the Chinese Communist Party*, at 41–42, SENATE SELECT COMMITTEE ON FOREIGN INTERFERENCE THROUGH SOCIAL MEDIA (Mar. 14, 2023); [REDACTED].

⁶⁵ E. Baker-White, *Inside Project Texas*, *supra* note 51.

⁶⁶ E. Baker-White, *A China-Based ByteDance Team Investigated TikTok’s Global Security Chief, Who Oversaw U.S. Data Concerns*, FORBES (Oct. 25, 2022), <https://bit.ly/3uoxblj>.


employees, including those located outside of China.⁶⁷

102. According to the *New York Times*, twelve former TikTok and ByteDance employees and executives reported that TikTok’s CEO, Shou Zi Chew, has “limited” decision making power.⁶⁸ Rather, they reported, major decisions related to TikTok are made by ByteDance founder Zhang Yiming and other ByteDance officials located in China.⁶⁹

103. *Forbes* recently reported that “[a]t least five senior leaders hired to head departments at TikTok in the last two years have left the company after learning that they would not be able to significantly influence decision-making.”⁷⁰

104. One former TikTok employee told *Forbes* that their paycheck showed *ByteDance* as the drawer; another said their tax returns listed *ByteDance* as their employer.

105. TikTok employees also have ByteDance e-mail addresses.

106. ByteDance’s own Internal Audit team prepared a “risk assessment . . . in late 2021 [that] found that numerous senior employees felt ‘that themselves and their teams are just ‘figureheads’ or ‘powerless ombudsmen’ who are ‘functionally subject to the control of [China]-based teams.’”⁷¹ Those teams “

⁶⁷ *Id.*; E. Baker-White, *TikTok Parent ByteDance Planned to Use TikTok to Monitor the Physical Location of Specific American Citizens*, *supra* note 40; Baker-White, *A China-Based ByteDance Team Investigated TikTok’s Global Security Chief*, *supra* note 66.

⁶⁸ R. Mac & C. Che, *TikTok’s CEO Navigates the Limits of His Power*, *supra* note 62.

⁶⁹ *Id.*

⁷⁰ E. Baker-White, *TikTok is Bleeding U.S. Execs Because China is Still Calling the Shots*, *FORBES* (Sept. 21, 2022), <https://bit.ly/3XTSnNF>.

⁷¹ E. Baker-White, *A China-Based ByteDance Team Investigated TikTok’s Global Security Chief*, *supra* note 66.

[REDACTED]

107. According to the *Washington Post*, one employee “who works in U.S. content moderation” said, “As I get more senior at the company, I realize China has more control.”⁷²

108. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

109. TikTok employees in the United States regularly communicate with counterparts in China using ByteDance communication apps.⁷³

110. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

111. Statements made by 24 former TikTok employees to an American journalist confirm that ByteDance is in full control of TikTok.⁷⁴

Contrary to Defendants’ Public Representations, the Chinese Government and Communist Party Exercise Significant Influence over ByteDance

112. The Chinese Government and Communist Party exercise and have exercised legal

⁷² D. Harwell & E. Dvoskin, *As Washington Wavers on TikTok, Beijing Exerts Control*, *supra* note 43 (emphasis added).

⁷³ A. Brown & D. Chmielewski, *The Inside Story of TikTok’s Tumultuous Rise—and How it Defeated Trump*, FORBES (May 5, 2021), <https://bit.ly/3XMUov8>.

⁷⁴ G. Cain, *How China Got Our Kids Hooked on ‘Digital Fentanyl’*, COMMON SENSE (Nov. 16, 2022), <https://bit.ly/3VLbUhG>.

and political authority over ByteDance. Chinese authorities even forced the company to alter certain business practices and close one business altogether.

113. In 2020, when TikTok reportedly was considering a purchase by a U.S. company, the Chinese government expanded its export control restrictions to cover TikTok's algorithm.⁷⁵ ByteDance then refused to sell the technology, and TikTok remains in ByteDance's control.⁷⁶

114. ByteDance has shared details about its algorithm for Douyin—the Chinese version of TikTok—with the Chinese internet regulator.⁷⁷

Defendants Deceive Arkansas Consumers through Their In-App Browser

115. When a user clicks on a link from within the TikTok app, the user is directed to the selected web page through TikTok's in-app browser.

116. When the selected page opens in TikTok's browser, it appears to the average user that he or she exited the app to view the page. In reality, the user never left TikTok. When any link is clicked, the normal TikTok display screen is immediately replaced with the linked webpage.

117. TikTok does not notify consumers at any point, before or after they click on a link within TikTok, that the link is opened using the in-app browser and not the consumer's default browser on their phone.

118. When the TikTok in-app browser is open, no information identifying it as belonging to TikTok is visible.

119. When a user clicks on a link within TikTok, TikTok does not offer the user the

⁷⁵ P. Mozur, et al., *TikTok Deal Is Complicated By New Rules From China Over Tech Exports*, N.Y. TIMES (Aug. 29, 2020), <https://nyti.ms/3XNyl7E>.

⁷⁶ Z. Xin & T. Qu, *TikTok's algorithm not for sale, ByteDance tells US*, S. CHINA MORNING POST (Sept. 13, 2020), <https://bit.ly/3Uje9HQ>.

⁷⁷ A. Kharpal, *Chinese Tech Giants Share Details of their Prized Algorithms with Top Regulator in Unprecedented Move*, CNBC (Aug. 15, 2022), <https://cnb.cx/3F13y14>.

option to open that link in their default browser, rather than in TikTok’s in-app browser.

120. There is no readily discernable way to disable the in-app browser.

121. When a user selects a link from TikTok’s in-app browser, whatever privacy controls the user set on their default browser do not apply.

122. Just as TikTok does not alert users to the fact they are using an in-app browser at all, TikTok also does not alert users to its ability to collect sensitive information through its in-app browser.

123. TikTok does not disclose its use of an in-app browser in its Privacy Policy or Terms of Service and does not inform consumers of data collection capabilities or practices associated specifically with the in-app browser.⁷⁸

124. Because TikTok does not alert consumers to the fact that they remain in TikTok even though they are accessing another web page, those consumers do not know that when they access that page, TikTok’s practices, policies, and rules apply—not the choices the user has made regarding their default browser.

125. TikTok’s use of an in-app browser, its failure to disclose its in-app browser when TikTok users click on links within TikTok, its failure to disclose its data collection capabilities and practices through its in-app browser, and its failure to provide a clear, readily apparent and easily accessible option to choose another browser, TikTok deceives Arkansas consumers.

⁷⁸ *TikTok Privacy Policy*, *supra* note 5 (the words “in-app browser” appear nowhere in the privacy policy); *Terms of Service*, *supra* note 5.

V. CLAIMS

COUNT 1

**Arkansas Deceptive Trade Practices Act,
Ark. Code Ann. § 4-88-107 *et seq.***

**False, Deceptive, and Unconscionable Representations about the Safety and Privacy of
Arkansas User Data, and the Risk of its Access and Exploitation by the Chinese
Government and Communist Party**

126. The State repeats and incorporates by reference every allegation contained in the preceding paragraphs. Ark. R. Civ. P. 10(c).

127. Defendants have and are engaged in “deceptive and unconscionable trade practices,” Ark. Code Ann. § 4-88-107(a)(10), by deceiving Arkansans who use the TikTok app about the risk of the Chinese government and Communist Party accessing and exploiting their data.

128. Defendants knowingly deceived Arkansas consumers, and continue to do so, because Chinese law reaches their data in all the ways described in this Complaint and because their data is at risk of access and exploitation by Chinese government or Communist Party. Such access and exploitation expose Arkansas consumers to harm, including to the types of harm described in this Complaint.

COUNT 2

**Arkansas Deceptive Trade Practices Act,
Ark. Code Ann. § 4-88-107 *et seq.***

**False and Deceptive Representations Regarding
the Application of Chinese Law to Arkansas User Data**

129. The State repeats and incorporates by reference every allegation contained in the preceding paragraphs. Ark. R. Civ. P. 10(c).

130. Defendants have and are engaged in “deceptive and unconscionable trade

practices,” Ark. Code Ann. § 4-88-107(a)(10), through their knowingly deceptive statements and representations that U.S. user data, which includes Arkansas consumers’ data, is not subject to Chinese Law, when that data is accessible by and may be shared with persons who are subject to Chinese law and the oppressive Chinese regime. Further, Arkansas user data has been stored on servers owned, operated, and hosted by Chinese companies subject to Chinese law, and some user data has been and is stored in China. Chinese State and Communist Party officials have interpreted Chinese law as applying to any data in which China has a national intelligence or security interest, no matter where the data is located.

131. TikTok’s statements that its U.S. user data, which includes Arkansas consumers’ data, is not subject to Chinese law are false, deceptive, and unconscionable. Through these statements, TikTok knowingly paints a false and deceptive picture for Arkansas consumers, namely that there is little to no risk of the Chinese government or Communist Party, which controls the Government, accessing and exploiting their data.

COUNT 3

Arkansas Deceptive Trade Practices Act, Ark. Code Ann. § 4-88-107 *et seq.*

TikTok’s Privacy Policy Misleads and Deceives Arkansas Consumers

132. The State repeats and incorporates by reference every allegation contained in the preceding paragraphs. Ark. R. Civ. P. 10(c).

133. Defendants have and are engaged in “deceptive and unconscionable trade practices,” Ark. Code Ann. § 4-88-107(a)(10), because recent and current versions of TikTok’s U.S. privacy policy have not alerted and do not alert Arkansas consumers to the fact that it may share their data with persons in China, who are subject to Chinese Law.

134. This is deceptive to Arkansas consumers. Arkansas consumers cannot know when

they read and consent to the privacy policy and grant permissions to TikTok to access private data that their data may be shared with persons subject to Chinese laws and is at risk of access and exploitation by the Chinese government and Communist Party.

COUNT 4

Arkansas Deceptive Trade Practices Act, Ark. Code Ann. § 4-88-108

TikTok's Privacy Policy Deceives Arkansas Consumers

135. The State repeats and incorporates by reference every allegation contained in the preceding paragraphs. Ark. R. Civ. P. 10(c).

136. Defendants have and are engaged in “[t]he concealment, suppression, or omission of . . . material fact[s] with intent that others rely upon the concealment, suppression, or omission” “in connection with the sale or advertisement of any goods [or] services,” Ark. Code Ann. § 4-88-108(a)(2), by not disclosing to consumers in TikTok’s recent or current U.S. privacy policy, which it has linked to and does link to on its page in the App Store where consumers download the app, the fact that it may share their data with entities and individuals in China, who are subject to Chinese Law, including, but not limited to, laws requiring cooperation with national intelligence institutions and cybersecurity regulators.

137. For the same reasons, Defendants have and are engaged in “[t]he act, use, or employment by a person of any deception, fraud, or false presentence” when “utilized in connection with the sale or advertisement of any goods or services.” Ark. Code Ann. § 4-88-108(a)(1).

138. This intentional omission and deception is a material fact to Arkansas consumers, who cannot know when they read and consent to the privacy policy, and grant permissions to the app to collect private data, the truth that their data may be shared with persons subject to Chinese

laws and is at risk of access and exploitation by the Chinese government and Communist Party, which exposes Arkansas consumers to harm, including the types of harm described in this Complaint.

COUNT 5

Arkansas Deceptive Trade Practices Act, Ark. Code Ann. § 4-88-107

Failure to Comply with App Developer Requirements

139. The State repeats and incorporates by reference every allegation contained in the preceding paragraphs. Ark. R. Civ. P. 10(c).

140. Defendants have and are engaged in “deceptive and unconscionable trade practices,” Ark. Code Ann. § 4-88-107(a)(10), because recent and current versions of TikTok’s U.S. privacy policy, which is accessible through its pages on the App Store and Google Play Store, have not alerted and do not alert Arkansas consumers to the fact that it may share their data with persons in China, who are subject to Chinese laws that expose their data to the Chinese government and Communist Party.

141. This is deceptive to Arkansas consumers, who expect that any app appearing on the App Store or Google Play Store complies with the minimal requirements for application developers, including requirements to be transparent with users about how their data is accessed and used. TikTok’s app does not.

COUNT 6

Arkansas Deceptive Trade Practices Act, Ark. Code Ann. § 4-88-108

Failure to Comply with App Developer Requirements

142. The State repeats and incorporates by reference every allegation contained in the preceding paragraphs. Ark. R. Civ. P. 10(c).

143. TikTok has and is engaged in “[t]he concealment, suppression, or omission of any material fact with intent that others rely upon the concealment, suppression, or omission” “in connection with the sale or advertisement of any goods [or] services,” Ark. Code Ann. § 4-88-108(a)(2), by not disclosing to consumers in its recent or current U.S. privacy policy, which it has linked to and does link to on its page in the App Store where consumers download the app, that it may share their data with persons in China, who are subject to Chinese laws that expose their data to the Chinese government and Communist Party.

144. For the same reasons, Defendants have and are engaged in “[t]he act, use, or employment by a person of any deception, fraud, or false presentence” when “utilized in connection with the sale or advertisement of any goods or services.” Ark. Code Ann. § 4-88-108(a)(1).

145. This intentional omission and deception is a material fact to Arkansas consumers, who expect that any app appearing on the App Store or Google Play Store complies with the minimal requirements for application developers, including requirements to be transparent with users about how their data is accessed and used. TikTok’s app does not.

COUNT 7

Arkansas Deceptive Trade Practices Act, Ark. Code Ann. § 4-88-107 *et seq.*

False, Deceptive, and Unconscionable Statements about the Influence and Control of the Chinese Government and Communist Party over Defendants

146. The State repeats and incorporates by reference every allegation contained in the preceding paragraphs. Ark. R. Civ. P. 10(c).

147. Defendants have and are engaged in “deceptive and unconscionable trade practices,” Ark. Code Ann. § 4-88-107(a)(10), in their deliberate efforts to downplay ByteDance’s control and influence over TikTok, and thereby the Chinese government and Communist Party’s

influence over ByteDance.

148. Defendants deceive Arkansas consumers when they claim that TikTok is independent from ByteDance, when any reasonable person would understand that evidence of, among other allegations described in this Complaint, ByteDance's influence and direction over TikTok hiring, employees, and management shows that ByteDance exercises significant control over TikTok.

149. Defendants' claims further deceive Arkansas consumers because they knowingly obscure TikTok's "China association"—the influence that the Chinese government and Communist Party have over ByteDance—and thus the risk that this influence poses to consumers' data through ByteDance's ownership and control of TikTok.

150. Defendants knowingly deceived Arkansas consumers, and continue to do so, because the influence and control ByteDance has over TikTok, and the leverage the Chinese government and Communist Party have over ByteDance, mean that TikTok's U.S. user data, which includes Arkansas consumers' data, is at risk of access and exploitation by the Chinese government and Communist Party. Such access and exploitation expose Arkansas consumers to harm, including the types of harm described in this Complaint.

VI. PRAYER FOR RELIEF

The State demands a jury trial and respectfully asks the Court to enter judgment and to:

A. Declare that Defendants' actions are unlawful, deceptive and unconscionable to Arkansas consumers under the ADTPA, Ark. Code Ann. § 4-88-101, *et seq.*;

B. Enjoin Defendants from continuing to treat Arkansas consumers unlawfully, unconscionably, and deceptively in the ways described in these allegations in accordance with Ark. Code Ann. §§ 4-88-104 and 4-88-113(a)(1);

C. Award the State civil penalties of not more than ten thousand dollars per each

violation of the ADTPA, in accordance with Ark. Code Ann. §§ Ark. Code Ann. §§ 4-88-104, 4-88-113(a)(3);

D. Restore any money or personal property such as uploaded content which may have been acquired by means of any practice declared to be unlawful together with other damages sustained. Ark. Code Ann. § 4-88-113(a)(2)(A);

E. Award the State the costs incurred in pursuing this action, including the expenses for expert witnesses, reasonable attorneys' fees, reasonable and necessary costs of the suit, and prejudgment and post-judgment interest at the highest lawful rates in accordance with Ark. Code Ann. § 4-88-113(e); and,

F. Grant all other relief this Court deems proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on this 18th day of July, 2024, I served the foregoing via eFlex on all
counsel of record.

/s/ Matthew M. Ford