

Case Study: A Chinese Social Video App TikTok Violates the Children's Privacy Law in the Us



Professor Yang Liu, Ph.D., MS

Professor John L. Crawley, JD, MS

Professor John Lohmann, JD, MBA

Introduction

- In 2018, TikTok, a Chinese social video app, began changing the balance of the world's social media markets which had previously been dominated by western companies such as Snapchat, Facebook, Twitter, and others.
- Unfortunately for ByteDance the huge success of the business in the United States, came at a steep price. ByteDance paid a five point seven million-dollar settlement to the Federal Trade Commission (FTC) to settle U.S. v. Musical.ly (predecessor to TikTok) in the U.S. District Court for the Central District of California.
- The United States Department of Justice (“DOJ”) alleged TikTok had collected and used personal information from children younger than thirteen years old without explicit parental approval or oversight, in violation of the Children’s Online Privacy Protection Act (COPPA) Rule.

Introduction (Cont'd)

One explanation hypothesized for TikTok's actions and the development of this issue could be the lack of a Chinese equivalent to the Children's Online Privacy Protection Act (COPPA) during the time period in question.

- Unlike the US, in which the Children's Online Privacy Protection Act (COPPA) is well defined, the first Chinese law regulating the protection of children's personal information on the internet took effect on October 1st, 2019 and is continuing to develop.
- The Chinese government has been working on Regulations on the Protection of Children (Draft for Deliberation) since Nov 29, 2019. This is the first time "online protection" has been added into it as the Chapter 5.
- For Chinese companies, their domestic legal environment is significantly different from that in the United States.

The Case Against TikTok

- Laws regarding website use by all types of users continue to develop as website use by a multitude of age and culturally diverse groups grows throughout the world. The TikTok case highlights the economic, social and ethical concerns that governments have for child use of these websites.
- Implications for children under the age of thirteen in areas of access, use, and timing are significant, particularly when the website data collection practices include identification to the level of use and location of the child.
- Allegations against TikTok include the allowance of unregulated registration and access by children under the age 13, and the collection of information and data without parental oversight and consent.
- These result in violations of the United States Federal Trade Commission, and 15 U.S.C. Sec. 6501, Code of Federal Regulations (CFR), Title 16. CH 1(c), P.312 requiring the protection of children when using online websites.