



Committee of Inquiry ...

TIKTOK'S TACTICS: OPACITY, ADDICTION AND CHINESE SHADOW PLAY

In the space of just a few years, TikTok – the latest major social media network – has caught up with most of its predecessors and even outstripped some of them. On the face of it, TikTok is simply a digital platform like so many others online, but it stands out for two essential aspects: its highly “addictive” algorithm, and its persistent ties to the Chinese authorities, despite its constant efforts to hide them. These characteristics of TikTok create risks for its users and, more broadly, for democracies. Today, TikTok is totally banned in several countries and is restricted in many others, including France. Should we go further and blacklist TikTok, in the same way that Huawei was blacklisted? The very least we can do is stop being naive about the risks to democracies posed by the “hybrid wars” waged by dictatorships.

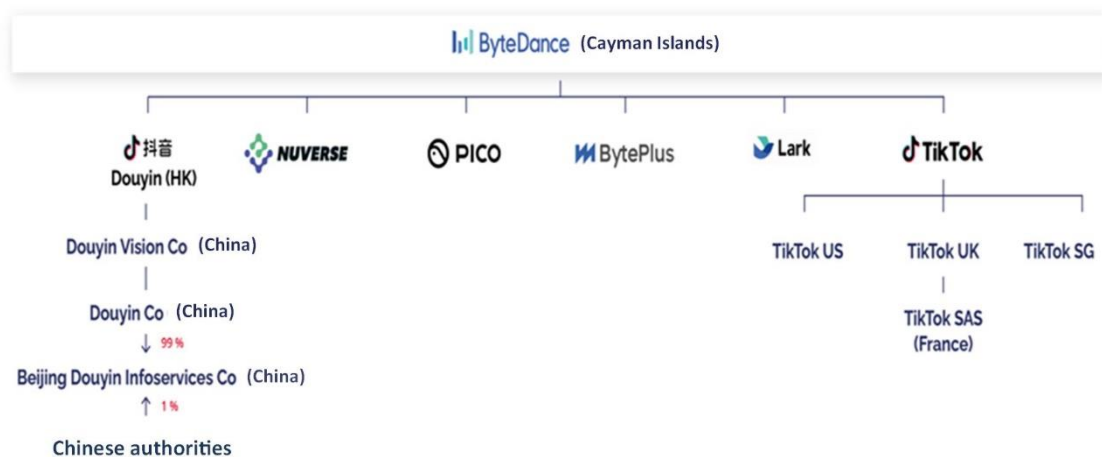
1. CLEAR RISKS CREATED BY TIES WITH CHINA

OBSERVATION NO. 1: DIGITAL SERVICE FIRMS CREATED IN CHINA CANNOT GROW WITHOUT STRONG SUPPORT FROM THE CHINESE AUTHORITIES

Firms in the digital economy, led most recently by Tik-Tok, are key players in China's influencing strategy. **The Chinese Communist Party controls these firms closely by different means, from establishing special units within these firms to purchasing “golden shares”, and has developed a strategy of cognitive warfare.** TikTok's global success makes it all the more vulnerable to pressure from the Chinese authorities: over a billion people use the application, including 22 million users in France. Like Huawei in the past, **TikTok is now the focus of the concerns that any digital firm of Chinese origin can arouse.**

OBSERVATION NO. 2: PERSISTENT TIES TO CHINA AT ALL LEVELS, DESPITE DENIALS

*TikTok's organisational structure as presented by the firm itself:
complete separation between TikTok and China*



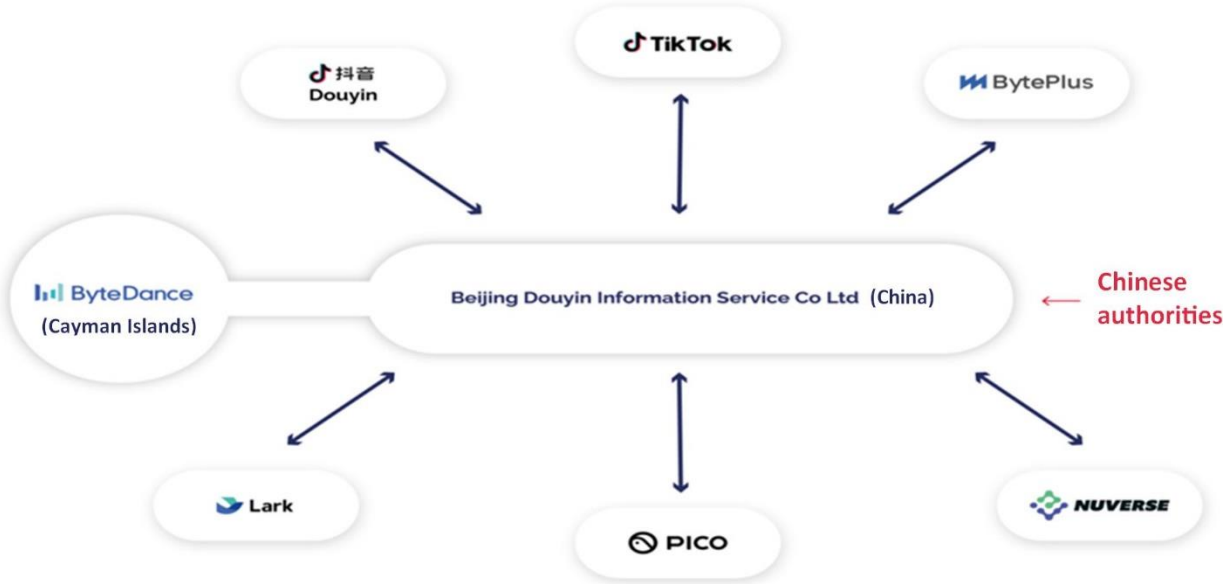
TikTok’s representatives are aware of these concerns and **deny any ties to China**. As TikTok’s parent company is ByteDance Ltd, which still has a Chinese subsidiary, this strategy of denial is divided into two approaches: **presenting ByteDance Ltd as an international company or even as a US company, and denying any ties between TikTok and Douyin,¹ the name of the Chinese subsidiary of ByteDance Ltd**. For example, TikTok’s CEO, Shou Zi Chew, explained to the US Congress that ByteDance Ltd is registered in the Cayman Islands and owned by US investors. According to Éric Garandau,² “there is indeed complete separation between TikTok and other entities operating in China”. Investigations by the Committee of Inquiry have revealed that **these two lines of defence do not hold water:**

- ByteDance Ltd, which is based in the Cayman Islands in the interest of opacity, is partly owned by a Chinese fund. **Above all, its founder Zhang Yiming owns 20% of the capital**. However, ByteDance Ltd is probably a VIE: a variable interest entity – a status that is very frequently adopted by globalised Chinese firms, whose articles of association allow a minority stakeholder to control the firm. Zhang Yiming is under close scrutiny by the Chinese authorities and was obliged to issue a public “self-criticism” in 2018. The **extraterritoriality** of Chinese law reinforces this supervision.

- regarding the ties between TikTok and the Chinese subsidiaries of ByteDance Ltd (renamed “Douyin”), the report shows that **TikTok needs technology, patents and engineers from the Beijing-based subsidiary, which is the beating heart of ByteDance Ltd and is closely controlled by Chinese authorities via their “golden share”**. Representatives of the Chinese authorities reacted strongly when US authorities asked ByteDance Ltd to sell TikTok to a competitor because vital national technologies were at stake.

Lastly, **TikTok France have been reluctant to reveal the name of its President, Mrs Zhao Tian**, who is unknown in France but has held major responsibilities at ByteDance Ltd. Her replacement by a European manager was announced by TikTok’s representatives just after their hearing before the Committee of Inquiry.

Actual relationships in ByteDance Ltd, according to the Committee of Inquiry



¹ The application Douyin is similar to TikTok and it already existed in China when, in May 2022, ByteDance Ltd renamed its entities in China “Douyin” to suggest a separation from TikTok.

² TikTok France’s Director of Public Relations, heard by the Committee of Inquiry.

OBSERVATION NO. 3: PROVEN FACTS THAT SERIOUSLY UNDERMINE USERS' AND GOVERNMENTS' TRUST IN TIKTOK

The persistence of ties between TikTok and China and the risks associated with this situation have been illustrated by repeated incidents, some of them recent. When shown proof of such ties and asked about them, TikTok's representatives first react by denying the facts and then by playing them down and dismissing them as bygone practices, before promising that such incidents will never happen again thanks to measures that are promised but slow to materialise. The investigations by this Committee of Inquiry and the many "TikTok" Leaks" revelations published by the press worldwide have highlighted the following practices :



- journalists investigating TikTok being subject to **espionage and remote geolocation**;



- **TikTok user data being transferred to China** and to engineers based in China;



- **proven censorship and misinformation designed to benefit China**, its geopolitical priorities and the interests of the Chinese Communist Party.

The fact that the application remains within the Chinese authorities' sphere of influence could, for example, help them **use the data collected to piece together the organisational structure** of private firms or government agencies in order to identify relevant targets for **espionage operations, identify the habits** of such people to facilitate such operations, collect precise data about a person in order to write a personalised e-mail to them as part of a **cyberattack**, identify **specific particularly strategic sites for the state** and the people who frequently visit them, orchestrate **misinformation campaigns** in international crises for the benefit of China or its allies, and **promote certain candidates in national or local elections**.

2. WIDESPREAD DATA COLLECTION FOR OPAQUE USES

OBSERVATION NO. 1: DATA COLLECTION THAT FACILITATES PERSONAL PROFILING

TikTok gathers huge amounts of data, like many other applications (Google, Facebook, YouTube, etc.). It collects this data directly from users (date of birth, telephone number, etc.) or via their telephone (IP address, address book, calendar, clipboard, geolocation, etc.). However, it also gathers data via algorithmic profiling, which is generated by users' constant, fast-moving interactions with TikTok's "For You" feed. This helps the application **infer characteristics that the individual concerned does not actively reveal**. In this way, it compiles **psychological profiles of its users and can use these profiles for commercial purposes** or for other undefined purposes. **TikTok intends to base the principle of "data minimisation" on a voluntary approach by users, which breaches the EU's General Data Protection Regulation (GDPR)**. TikTok's privacy policy does not clearly state the purposes of this data collection.

Another specificity of TikTok is the extent of these data "flows". The data is stored on servers based in the US, Malaysia and Singapore. It is also **shared with service providers and unnamed firms in the TikTok group based outside the EU – mostly in China –** which can access the data remotely. TikTok's privacy policy for users is opaque in this regard, as in so many other regards, merely stating that this data sharing helps "fulfil certain functions". When questioned by the Committee of Inquiry, TikTok's representatives repeatedly eluded this issue.

OBSERVATION NO. 2: A SERIES OF LEGAL PROCEEDINGS AGAINST TIKTOK INITIATED BY EUROPEAN DATA PROTECTION AUTHORITIES

European data protection authorities have initiated several legal proceedings against TikTok, **especially for the protection of minors**. In 2021, the Italian authorities **ordered TikTok to suspend the processing of data originating from people “whose age could not be established with complete certainty”**. The Dutch authorities fined TikTok **€750,000** for the violation of children’s privacy.

On 29 July 2020, the TikTok group declared TikTok Ireland as its “main establishment” in Europe, within the meaning of the GDPR. This makes the Irish Data Protection Commission (DPC) **its lead authority and the only one empowered to make binding decisions concerning TikTok within the EU** pursuant to the GDPR, thereby depriving the French Data Protection Authority (CNIL) of its authority to control TikTok. The DPC is currently pursuing **two legal proceedings**: on the conditions for processing the personal data of users under 18 years old and **on TikTok’s transfers of its users’ personal data from the EU to China**. The CNIL nonetheless fined TikTok **€5 million** on 29 December 2022 on grounds of the firm’s use of **cookies** on the tiktok.com website, on the basis of a residual jurisdiction pertaining to the French Data Protection Act (Loi informatique et libertés).

OBSERVATION NO. 3: TIKTOK’S “PROJECT TEXAS” AND “PROJECT CLOVER” FALL SHORT OF THE MARK

In response to the threats of a ban in the United States and numerous restrictions on use within the European Union, TikTok’s executives have announced **“Project Texas” in the United States and “Project Clover” in Europe** in order to reassure public opinion about the security of user data.

Nevertheless, in the light of the available information, “Project Clover” **does not reassure the members of the Committee of Inquiry, it does not ensure any “impermeability” with regard to China, and it does not resolve the security issues** relating to use of the application, mainly for the following reasons :

- **vagueness about the implementation schedule** and therefore about the security of user data pending this implementation ;
- **the continued possibility of data transfers to China** and of engineers and employees based in China being granted access to it, given the refusal by TikTok’s representatives to confirm that “Project Clover” would put an end to this practice ;
- a principle of the geographical location of data in Europe that provides **insufficient protection against US and Chinese extraterritorial legislation**.

3. MULTIPLE FORMS OF OPACITY

OBSERVATION NO. 1: AN OPACITY OBSERVED BY ALL ORGANISATIONS DEALING WITH TIKTOK IN FRANCE

In its annual report on misinformation, France’s **audiovisual and digital communication regulator (ARCOM) lambasted TikTok for its lack of transparency and cooperation**: *“We have received many incomplete answers to our questions from all platforms, but TikTok has been the least forthcoming of all”*. Hearings held by France’s collective copyright management bodies (SACD, SACEM, etc.) have also underlined TikTok’s opacity and manifest lack of cooperation with regard to revenue from the use of musical and artistic creations on its platform, which therefore **neither provides fair remuneration for artists nor effectively counters widespread audiovisual piracy on its platform**.

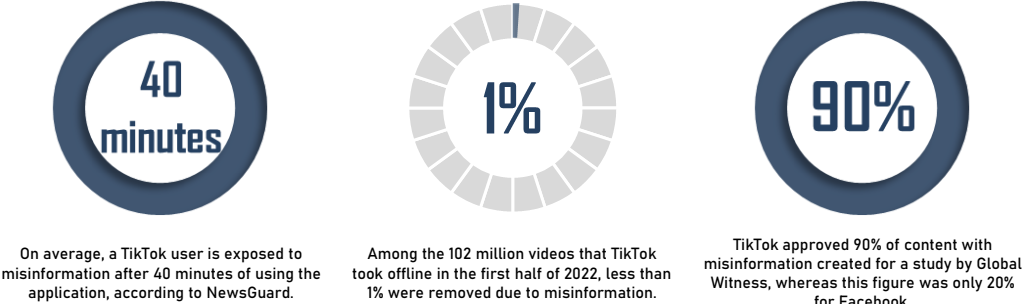
OBSERVATION NO. 2: AN OPAQUE ALGORITHM BEHIND TIKTOK’S POPULARITY

TikTok’s recommendation algorithm is its main asset. By posting a multitude of very short videos, **it can gather a wealth of “training data” that is unrivalled in terms its quantity and quality**. The **algorithm’s functioning is completely opaque**, despite the popularity of

the platform as a source of information among its young users. TikTok admits that it intervenes **in the editing of its “For You” feed**, sometimes by reducing the visibility of certain content (“shadow banning”) and sometimes by “pushing” other content to increase its visibility. Furthermore, **this algorithm still relies on Chinese technology and on the Chinese engineers** who developed it, despite TikTok’s denials.

OBSERVATION NO. 3: OPACITY IN TIKTOK’S MODERATION POLICY AND WHAT IS CURRENTLY A LOSING BATTLE AGAINST MISINFORMATION

TikTok is a **poor performer in the fight against misinformation**. According to NewsGuard, users only have to spend **40 minutes on the application** before being offered videos whose content conveys misinformation about current affairs; and misinformation seems to be even more prevalent when **TikTok is used as a search engine**. TikTok produces **worse results than Facebook and YouTube in this field**, according to Global Witness.

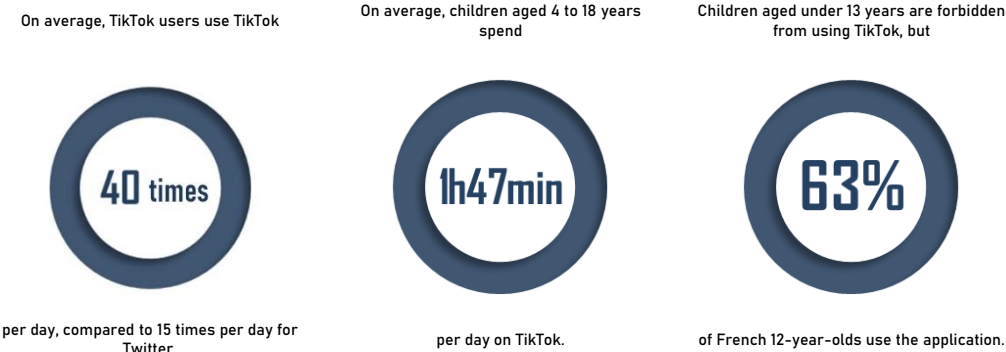


TikTok has remained **ambiguous about its human resources dedicated to fighting misinformation**. Only the number of workers in its Global Trust and Safety Team (40,000 safety professionals) is stated and this includes all teams dedicated to content security. Moreover, TikTok is slow in removing **content that conveys misinformation** as there is no proactive approach to this issue. TikTok’s labelling system is poorly developed, whether for flagging up state-run media accounts or content altered by artificial intelligence, and there is total opacity surrounding **shadow banning**, the practice of concealing content rather than removing it for censorship purposes.

4. A PUBLIC HEALTH ISSUE: SERIOUS CONCERNS ABOUT TIKTOK’S PSYCHOLOGICAL EFFECTS

OBSERVATION NO. 1: A MONOPOLISATION OF ATTENTION

TikTok’s algorithm is especially effective in **capturing its users’ attention**. The **short form of its videos** significantly increases the number of user interactions, which enables its algorithm to identify their interests quickly. This attention-grabbing aspect is so strong that some psychologists consider **TikTok use to be “addictive”**. Although the use of the term “addiction” to refer to the effects of screen exposure is still subject to scientific debate (some psychologists prefer the term “stupor” with regard to TikTok!), the **observations of certain practitioners are worrying**, mentioning impacts such as sleep deprivation, attention disorders and sedentariness.



It is now beyond any doubt that very young people can be harmed by social media in general and by TikTok in particular, on which some minors spend **around two hours per day**. In the UK, 16% of three- and four-year-old children already use TikTok. In France, two out of five 11 year-olds use the platform. Excessive exposure to digital media can cause delays in language acquisition, the recognition of emotions and in the development of fine motor skills. **There are also proven effects on the quality of children's and teenagers' sleep**, with the attendant risks of depression, anxiety and reduced levels of concentration at school.

OBSERVATION NO. 2: PROMOTION OF DANGEROUS AND HYPERSEXUALISED CONTENT

TikTok's algorithm ends up **locking users into filter bubbles that can be dangerous**. In December 2022, a study by the Center for Countering Digital Hate showed that the application **tends to offer more dangerous content to vulnerable people**. Users with profiles indicating an interest in mental health issues are offered **12 times more videos about suicides** than standard user profiles.

According to Jean-Noël Barrot, the French Minister for the Digital Transition, "the initial promise of an algorithm promoting openness to the world and cultural content has not been kept. On the contrary, this is an algorithm of isolation."

This isolation is harmful **for teenagers** in a pivotal phase of their self-development. That is why the **filters proposed by TikTok, such as "Bold Glamour"**, are widely criticised for the increasing risk of dysmorphophobia among teenagers. Clinicians' testimonies confirm TikTok's tendency to **magnify psychological difficulties in vulnerable people**. In addition, increasingly **dangerous challenges** can also be found on TikTok, with the firm being insufficiently aware of its own responsibility in this matter. Italy's national competition regulator ordered a probe into TikTok in March 2023, accusing it of **failing to apply its own rules on content inciting suicide, self-harm and poor nutrition**. TikTok also has an ambiguous moderation policy on hypersexualised content. Indeed, it appears to refuse to remove any content that is popular.

OBSERVATION NO. 3: TIKTOK FAILS TO TAKE PUBLIC HEALTH RISKS SUFFICIENTLY INTO ACCOUNT

Given the excessive amount of time that young users spend on the application, TikTok relies on these **users' own voluntary decisions**: for minors, an alert is displayed after 60 minutes of use and a second alert is displayed after 100 minutes of use. Yet this strategy is illusory: the application is designed to prompt users to remain on it for as long as possible. **TikTok also refuses to state how many minors actually heed these alerts**. A response based on **parental control** is also unsatisfactory as it only exacerbates the social inequalities between children whose parents have the time and means to control screen time and those whose parents do not. The **promotion of cultural content** also seems completely out of step, given the homeopathic nature of this approach.

TikTok's **checks on age** also seem woefully inadequate. The platform relies on the detection of accounts that are suspected of belonging to minors. This is a clearly ineffective technique: in theory, **children under 13 are forbidden from using the application**, yet around **45% of 11 to 12 year-olds have a TikTok account!** As a matter of urgency, the application should implement an age verification system that uses an independent third-party checker, as proposed by the French bill to establish a legal age for using social media and combat online hate.¹

¹<https://www.senat.fr/dossier-legislatif/ppl22-389.html>.

PROPOSALS BY THE COMMITTEE OF INQUIRY

1. Extend the ban on using TikTok to employees of operators of vital importance (OVI), who are required to play a key role in crises. When the EU NIS2 Directive comes into force, this ban should be extended to certain entities concerned by the new directive after the assessment of risks on a case-by-case basis.
2. Demand that TikTok : publicly present the new transparency and moderation measures implemented in response to the criticisms by the [audiovisual and digital communication regulator \(ARCOM\)](#) ; increase its French-language moderation resources ; specify which resources are dedicated to combating misinformation and proactively remove any content that conveys misinformation ; reinforce its labelling of content from state-run media or content altered by artificial intelligence; ensure a transparent approach to its “bonuses” based on the visibility of content and its concealment techniques ; apply algorithmic amplification to certified content.
3. At the European level, organise the targeted monitoring of major platforms including TikTok from 17 February 2024 (effective date of the EU’s Digital Services Act) with the support of national regulators.
4. Ask the European Commission to decide immediately on a graduated response to major online platforms that do not comply.
5. Demand that TikTok negotiate a fair agreement with the SACD in order to combat audiovisual piracy and copyright infringement on the platform more effectively. Similarly, demand that TikTok modify the initial agreement negotiated with the SACEM in order to provide fairer and more transparent remuneration for music publishers whose creations boost TikTok’s popularity.
6. Concerning the implementation of the GDPR, ensure better supervision of the cooperation mechanism between the lead supervisory authority and the national supervisory authority, especially by setting deadlines to speed up cross-border proceedings and by including out-of-court settlements.
7. Maintain the opportunity for national supervisory authorities to check on compliance with the EU’s future ePrivacy Regulation, especially with regard to cookies.
8. Require TikTok to provide national and European authorities with more precise and convincing demonstrations that “Project Clover” will enable the protection of European users’ data.
9. Failing that, propose an alternative to “Project Clover”, providing additional security guarantees that are sufficient to protect data from extraterritorial legislation by appointing a “trusted operator” that is registered in the EU, and by using data-processing software developed by European firms. Demand that TikTok commit to a precise deadline for the implementation of these guarantees in order to avoid any delaying tactics, which should not exceed one year.
10. Require ByteDance Ltd, TikTok’s parent company registered in the Cayman Islands – a tax haven, to clarify its articles of association and the voting rights on its board of directors. If the company proves to be controlled by its Chinese founders, ask the European Commission to demand that ByteDance Ltd either changes its articles of association in order to end to its Chinese founders’ control, or sells these Chinese founders’ stakes in the company.
11. Demand that TikTok create application programming interfaces (APIs) and grant widespread access to them for any research bodies that wish to do so, while announcing this policy in order to enable the academic world and civil society to assess TikTok’s compliance with its legal obligations imposed by the EU’s Digital Services Act.
12. Ensure the legality and security of the content-scheduling, moderation and advertising-targeting algorithms used by online platforms by introducing, at European level, minimum mandatory standards for ethics and respect for fundamental rights that are applicable from the design stage onwards in order to ensure their “safety and legality by design”.
13. Treat TikTok as the editor of its “For You” feed and hold it responsible for its content.

14. Create a new European system of greater responsibility for intermediate service providers using content-scheduling algorithms.
15. Ask France's public online portal PHAROS, whose role is to flag up illegal online content, to take greater account of offences relating to the spread of misinformation and adapt its online form for reporting offences accordingly.
16. Ask digital platforms to implement upstream moderation in the event of serious disruptions to law and order and of the use of these platforms by troublemakers to organise or incite such disruptions to law and order. In the event of riots, clear incitement to personal violence, the vandalisation of public facilities or buildings, or to intrusion into public facilities or buildings, enable government authorities to order any social media service to remove or block access to such content, in the manner of the provisions already in force to counter child pornography and terrorism.
17. Support research on TikTok's psychological and health effects.
18. In the event of a proven danger, especially to its users' health, apply Article 66 of the GDPR in order to suspend the application.
19. Demand that TikTok introduce an effective age verification system that uses an independent third-party checker.
20. Introduce an application blocker for minors that is activated after 60 minutes.
21. Ask the French government to suspend TikTok in France and to apply to the European Commission for its suspension in the EU for national security reasons if:
 - TikTok fails to answer, by 1st January 2024, the main questions asked by the Committee of Inquiry (questions concerning the capital and articles of association of its parent company ByteDance Ltd, intellectual property and the location of the engineers who develop its algorithm, the nature of the Chinese entities with which TikTok is constantly in contact, the nature of the user data transferred to mainland China and the reason for these transfers, the capacity of "Project Clover" to end these transfers of data, etc.);
 - TikTok, by the same deadline, has failed to implement the main measures requested by this report: clarification of the articles of association and shareholders of the parent company ByteDance Ltd and of its effective separation from mainland China; compliance with the legal requirements of the EU's Digital Services Act, including a concrete approach to moderation and combating misinformation that is actually effective; presentation of additional guarantees for "Project Clover"; implementation of an effective age-verification system and concrete measures to counter teenagers' excessive use of the application; and an end to "piracy".



Mickaël Vallet
Chairman
Senator
Charente-Maritime
(Groupe socialiste,
écologiste et républicain)



Claude Malhuret
Rapporteur
Senator
Allier
(Groupe Les Indépendants
– République et territoires)

[Commission of Inquiry on use of the social media network "TikTok", on its use of data, and on its influencing strategy](#)