

TikTok, WeChat, and U.S.-China Decoupling: An Explanation and Analysis
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Transcript (Rough)

Melissa Hathaway: Good afternoon, good morning, good evening for anybody who is calling in from all the different time zones around the world. I was very surprised last week with the executive orders, but I wanted to, I think it's important to put them in a context of how they map back or where their provenance is coming from. And the provenance really is coming from the Executive Order 13873 that was released last May, on May 15th, on securing the information and communications technologies and services, securing that supply chain as it is in the United States. For the last decade or more, at least even when I was in the government, there was a fair amount of concern about the vulnerabilities of the key technologies that are in the backbone of our telecommunications networks and then now more increasingly in all of the other broader ICT networks, infrastructures, data centers, and providers.

And within that executive order, the president used the Emergency Economic Powers Act and the National Emergencies Act to empower the secretary of commerce to be able to restrict the acquisition or use of ICT or their services designed, developed, manufactured, or supplied by persons owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary. It was written really very broadly. This executive order provided a framework also to prohibit U.S. companies and operating within the U.S. jurisdiction from purchasing or using the surfaces or equipment provided by these suppliers of concern. And so, when you look at the language of the two executive orders, the twin executive orders for WeChat and TikTok that came out last week, they're actually using very same language of the original executive order on ICT services and supply chain. But concurrently, what's going on and is also important is two days before the executive order, Secretary Pompeo went in and talked strongly and more in-depth about the Clean Network initiative that is surrounding around 5G and has been the basis of some of the initiative around eliminating Huawei from our communications infrastructure and from 5G. And within that Clean Network initiative, there are five main components to it that were announced last week, two days prior to this executive order. And these are also important because it's a sign of where things are headed and that where we should be expecting from our companies of what we should be expecting next.

So, the first was looking at clean carriers. Within the U.S. telecommunications network, we do not want to have connections to providers in a specifically called out. Clean network is specifically about China and those companies that have a link or potential link to the Communist Party. So, the Clean Carrier for U.S. telecommunications is branch one of the Clean Network. And I would expect that you're going to see the FCC, Federal Communications Commission pull the licenses for China Unicom and China Telecom per the discussion of team Telecom that we heard last month. So, any telecommunications provider that is headquartered in China will likely have their licenses revoked by the FCC. The next two initiatives were really about applications, untrusted applications that are being sold in our stores, and untrusted applications that might be resident within the phones or the mobile devices that we've been issued, that they're already a pre-factory load application on the device. And so, the first area of applications is that there's going to be an issuance most likely from secretary of commerce, although it's unclear how

they're going to execute that, that they would prevent the sale of or require Apple and Android and the other mobile app stores to remove WeChat and remove TikTok from their stores. And then the secondary will be that anything that comes preloaded into your phone, whether it's an Android, or Samsung, or pick your flavor will have a review of trusted applications. So, this is where the WeChat and the TikTok come in. And I'll talk to where I think the concerns are in a few minutes.

Then the fourth area was Clean Cloud. And this one, I thought, is going to have more profound implications for all of our businesses than any of the others because it's aimed at trying to prevent intellectual property theft, data loss, etc., but it specifically calls out Alibaba, Baidu, and Tencent. And so, whereas the application stores and the application components of the Clean Network initiative that secretary Pompeo announced did not call out any specific application, but the fourth component on cloud did. It called out three companies specifically. And I work with a number of companies that already have strategic partnerships with Alibaba, or Tencent, or Baidu. So, this is going to have profound implications, I think, for the Fortune 500. And then finally the last component of Clean Network was Clean Cable. And this is protect the undersea cables from subversion. And one could say that this is the Google-Facebook cable that was going through the Pacific, through the Philippines, over to Hong Kong was recently blocked. And so, this would be basically discussing other parts of cables and cable landings that we're trying to push forward of not allowing the interconnect with Chinese infrastructure or Chinese telecommunications carriers.

So, when you look at the two executive orders, they really mapped to these two components, the executive order on supply chain, ICT and supply chain, and then this clean path or the Clean Network initiative that is being administered by secretary of state and at state department. So, you have two key components within the U.S. executive branch. Commerce with extreme authorities outside of the CFIUS process, Committee for Foreign Investment in the United States., and now secretary of state implementing the Clean Network initiative that will be executed most likely through federal communications commission and NTIA.

So, what's the national security concern, and why are we executing these executive orders aside from the fact that they are headquartered or have parents of the subsidiary or headquartered in China? There seems to be a concern over data access and access to hundreds of millions of people's personal information habits geolocation data. And there's a concern that we might have the ability to monitor, track, or collect more data and inform more things. There's a secondary concern that I don't think has been articulated well. However, I did hear one of our department of justice colleagues yesterday talk about it is that there's also a concern that these apps could be used for content control and or censorship and that there's overall a fear of reach that's goes wide and deep of Chinese government into the United States core infrastructure and personal datasets. And so, those are the key areas within this.

When I think about this though and it's highly specific to China that we really should be having a much more transparent conversation that not just about the U.S. and China, but about the applications broadly and how they use data, and who owns the data, what is collected and why, where is the data processed, how is the data stored and where is it stored, how is it protected, what are the data transfer policies, how long is the data retained and why, when is the data retired, and maybe most important, maybe most important who owns the data? And because this goes to the heart of many of our cross

border data flow issues that we're currently experiencing, the data privacy, data protection laws, and regulations that happen all around the world, the data sovereignty issues that we're addressing all around the world, all of which have components of foreign direct investment have a whole component on e-commerce and trade and they all have profound implications for how we do business together and how we ensure the free flow of goods, services, data, and capital across borders. I'll stop there, Steve.

Stephen Orlins: That's fabulous background. Fabulous. Let me just ask one very quick question, which is only because I'm not a technologist and don't understand this. So, FCC revokes, Unicom, China Telecom's license. Does that affect calling between the United States and China, phone calls? Do don't we need to interface with some of these companies or no, not anymore?

Hathaway: We do. We need to interface, but that would go through...technically, your call would still go through. It's their ability to operate and provide telecommunication services here in the United States. So, it's really about their physical presence here in the United States, not about the interoperability of our phone calls. However, I do believe the interoperability of our data flows are going to be affected with the Clean Network initiative. They'll have more stringent controls, I believe, through the great firewall that's happening, you now, on China, and we'll have more controls here in the United States.

Orlins: I see. Okay. Gary, let me turn it over to you.

Gary Riesel: Thanks very much, Steve, and it's a pleasure to pleasure to join you today. Well, I'm going to take the perspective of as an investor, how we looked at this and she made me look at it more importantly, how I would look at this. And the first thing to say is that the rise of an app like TikTok was inevitable. And when you look at the largest internet on the planet, which is within China, and you look at the amount of money that's been invested in the venture capital market there over the last 20 years which would total hundreds and hundreds and hundreds of billions of dollars, you look at the scale of the market, look at the engineering talent, generally, that would be enough to create a great deal of innovation and new forms of communication and messaging. China also has the added benefit of being protected at home market in which to launch a large number of services and perfect things.

And I think this is, we're just starting to see the Chinese companies where their own domestic market's not enough, and they want to be global players. And so, again, I think this is something that it was inevitable, the fact that it's TikTok maybe, unfortunate for them, Alibaba has tried to be successful in the U.S. with modest results, Tencent really doesn't have a huge amount of revenue coming from the United States outside of gaming, they have virtually nothing, you now, Baidu has failed miserably on its overseas as a search engine because it's just inferior. It's just playing inferior technically to Google. So, talking about how TikTok came to be in this position. So, first of all, when you look at the ownership structure. So, TikTok was formed out of the acquisition by ByteDance of a company called Musical.ly. And Musical.ly was this app that initially was getting relatively modest traction, good, but modest traction in the United States for young adults, adolescents to lip-sync their videos and Musical.ly had a series of investments. Streaming was one of those investors. And as part of a round of the financing, ByteDance made the Musical.ly acquisition. And what changed was the fact that the technology capability within ByteDance that they had perfected with their Douyin applications in China, which is very similar to TikTok but focused on the Chinese market,

they simply wound up with better algorithms in terms of being able to focus and create more stickiness or addictiveness, if you will, of those applications. And an example a historical example of this in terms of something that I experienced a long time ago was Google. So, Yahoo had a search engine, the Vista had a search engine. Back in the late '90s, there were a number of players.

And I remember when we were looking at an investment in Google and the Yahoo folks response was, "You don't really need to do that. We have everything they have." And clearly, that was not the case. And it was simply because people were not privy to exactly what was driving the Google search engine and the power of those sets of algorithms. 20 years later, we have TikTok. So, I actually think there's quite an interesting comparison between the two in terms of things that you look at. If you would think that all the competitors are the same, but they're clearly not. Melissa talked about of what we're looking at for the competitive landscape. Facebook is ferociously trying to ban TikTok. And the reason they're doing that is they have not yet been able to figure out how to compete with them. And so, it's interesting. You don't read much about that, but there's a huge lobbying effort and a lot of money being spent by Facebook to try to ban TikTok. And I think a lot of it's being couched under us, what's good for the U.S. etc., but it's clearly good for Facebook if TikTok is banned in the United States. I don't think Facebook's a huge fan of Microsoft or Twitter buying TikTok, especially if the algorithmic capabilities and everything come with it. I think that would create a perhaps even more fierce competitor than they would have just with TikTok alone in the U.S.

There's nothing in TikTok or ownership structure to cause calls or concerns. Most of the investors in ByteDance and TikTok, to this point, are international funds with primarily USLPs Sequoia, Capital, Hill House, SIG, which is the subsequent and a group out of Philadelphia. Those are the primary...and SoftBank, those are the primary investors and the vast majority of the cash for those investors has come from U.S. endowments foundations and ventures. So when we look at the ownership structure of the cap table for ByteDance and TikTok is simply a subsidiary of ByteDance, you don't really see any Chinese government entities. And that's very similar to when Alibaba in the same stage, Tencent the same stage, Baidu. They were all funded with overseas money. There was virtually no Chinese money in the cap tables of those companies prior to their public offering. So, again, if you look at the standpoint of why are we going after this, there's really not an overriding ownership structure we would say, "This goes back directly to Beijing." Xi Jinping's sister may very well have some shares, she seems to have shares and lots of things, but we'll set that aside for the day.

So, what are the reasons for this blockage or this blockage? So, there's much more acceptance today on reciprocity. It seems to be the only thing that moves China to respond in a number of areas. The great firewall started in late '90s, became more and more restrictive just time went on, and really, the large U.S. players in social media search, etc., have had no assets to the Chinese market. So, one could say, "Well, this is fair." But I think we should be very honest and straight forward about that. And I think for some reason, we seem to be less inclined to simply call that the way it is as opposed to coming up with lots of other reasons because I look at TikTok again, there's no real history of turning data over to the Chinese government and the U.S. there have been some accommodations perhaps on listing of certain songs or listing of certain videos, but I actually believe that that the real reasons come back down to reciprocity and the fact that this is leadership in an area of technology leadership, it's very important to a

large number of U.S. companies and important to the U.S. government, as Melissa mentioned.

The target audience group has always been sensitive. So, looking back over history of media, things that were targeting kids and kids going up, including people of young adults, 15, 16, 18 years old, that has always been an extremely sensitive area. And it's the first time that it's a foreign company that is coming into the U.S. market and actually having that success. You could argue, well, the Sony Walkman, but there was really no social element to that. It was simply a machine to play music. This is something completely different. And I think that the fact that it's coming at this time with the U.S.-China relations are more of a front position, those certainly plays into that, but they have really cracked the code on some underlying technology and we have to respect and accept that.

I still come back to the fact, this is just the first wave, first of a wave of Chinese firms that are not going to be satisfied with leading only in their domestic market. They have huge scale. Historically in technology, a U.S. firm had such an advantage because if you were the largest firm in the United States, inevitably, when you went overseas, you went overseas as the largest firm in the world. That is no longer the case. And I think that much as we have the discussion around the USB and the world's largest economy, China overtaking, it's really, to me, it's a false comparative. They have four times as many people. You would hope that that economy would be healthy and would grow and probably could be larger than the U.S. That has nothing to do with being the world's best economy for being the world's best society, but I think this is an example where it's come up very quickly and it's taken a number of people by surprise. And so, people are uncomfortable with this. And I think we should become more straightforward and honest about dealing with this. It has not had a huge impact on venture investing in these areas in China.

When you're looking at investing in venture capital in China, you always look at the choke points in the marketplace, Alibaba, Tencent, Baidu, ByteDance now, Jingdong, there's a number of companies that control a large part of the downstream distribution. So, you always have to have a relationship with one of those companies in order of anyone to be large. ByteDance has joined that group more recently. But frankly, I think it makes people nervous. You see something get that big, that valuable, that fast. And that's some of what's driving the reaction that we're having.

Orlins: Fascinating. Both of these presentations are absolutely fabulous. I mean, do you think, I mean, Gary, you mentioned the reciprocity. Do you think the policy is right? Is this the way we should be going? And Melissa too, is this the right policy because we don't let the China... You know, I have been arguing in every speech I've given in China for years and years, I've said, "Allow Facebook, Google, YouTube, Twitter, unblock U.S. media companies in China. These are not truly national security threats because there are ways to deal with the national security aspect of these companies." And needless to say, I have totally failed. None of them are allowed to operate, but is this the right policy then?

Rieschel: So, I think I would like to hear Melissa's comments on the security side of this, in particular. On the economic side, this is where TPP could have been incredibly helpful. A group of 10, 12, 14 democracies, liberal democracies that are basically saying these are the rules. So, Melissa brought up the whole point of data, who owns data? Setting standards among that group would absolutely force China to make a very fundamental

decision, which is, are we part of the world standards in terms of how we deal with this, or are we not? And I think that, like, planning to do it just between the U.S. and China, it looks much more like a one-on-one competition, which I think is a terrible mistake in terms of how we should be addressing China and these kind of policy issues. You have to make the problem bigger. And by making the problem, this is what we should do for the global good, the whole idea of data ownership, data management, data distribution. If you could create a forum where that became the fundamental discussion, I think that would be... then the reciprocity issue wouldn't be, "Well, do you want to play in the USA?" It's like, "Do you want to be part of this group? Do you want to be part of this standard?" That would be, to me, a much more palatable conversation.

Orlins: A multilateral approach. Melissa,

Hathaway: Yeah. I think the conversation needs to be about the data, not about the app or the company because that's really coming down to... it's about the data flows, it's about the access to that information and what you can do with it. The APEC cross-border privacy rules are being expanded to be more inclusive of the general data protection regulation so that you can have cross border commerce and data flows from Europe into Asia. And I agree that the TPP was definitely a good path to do that. The cross-border privacy data flows is another way. You have to fold them into the system and have it much more transparent and open, but, one could argue and I have publicly that Facebook had a very good record of protecting our data and or following their own policies on privacy. And so, you could look at the same challenges in the United States of our companies, many have had the same concerns of the data sets that they have access to, who they're selling it to, how they're using it, and the algorithms that TikTok has are exquisite. And so, this is the beginning of the algorithmic warfare in many ways I could say, and the beginning and maybe a wedge into artificial intelligence and where the next set of companies are going to be maybe targeted because of the algorithms that they have because of the way that they can actually predict the data, usage data flows and the like.

Orlins: Facebook, I mean, this conversation is not very friendly to Facebook, but do you really think they're behind a lot of this, especially the TikTok ban as opposed to a merger with Twitter or resale to Microsoft. It reminds me, to some degree, of the CNOOC attempted acquisition of Paycom way back 2005 where a lot of the political flack thrown at CNOOC was created by another one of the bidders that there wasn't this belief that this was such a danger to U.S. national security. In fact, folks on our board of directors who were former Paycom commanders upon that there was no risk to U.S. national security, but they were able to gin up enough that the seller became nervous that this deal would ultimately crater. So, they chose the lower bidder. Is that what's going on here with Facebook?

Rieschel: It's a fact in terms of Facebook lobbying efforts to ban TikTok. I think that's better easily understood.

Orlins: Wow.

Rieschel: How much of that is being done? How many each month they're spending? I would have no idea, but I think we're all a little naive about what actually goes on in the background of things. China's probably the most ferocious market for this. Every company, China has 30-something companies listed over the last many years, every

single time one of our companies goes to list, there's a letter, anonymous letter that shows up at the China SCC or the USCC alleging all sorts of terrible things inside the company. And it inevitably comes from an investor or someone else who's an investor in a related company. So, this just seems to be part of the game. If I was at Facebook, I would say, "Oh, yeah. These guys are terrible. We should ban them." And the reality is if on Facebook, I'm banned in China, I've tried to reach out multiple times to access in different ways the Chinese market. So, I would think that's where that reciprocity theme is becoming far more common among companies. Companies never used to like reciprocity. That was always something they would tend to step back from, but you're seeing more and more of that in the tech sector.

Orlins: Melissa, on that.

Hathaway: Yeah. I mean, I think it's about market access. It's about reciprocity. If you look at how the generation that's really is using and adopting TikTok is a generation of people that Facebook doesn't have access to and cannot attract. And so, if you start to look at the age groups of everything that you've got this, a viral application with a young population and emerging group that Facebook doesn't get and the company has an algorithm that could really bring the power of all the information that Facebook has already collected. So, I agree with Gary that this is the block the access to my market, and I'm going to try to create, and I failed twice already to create a like product to TikTok, right, today that they announced real failed again to really, provide the same type of platform that TikTok did.

Rieschel: But again, I think fundamentally, Steve, we need to take a look at this and understand this is going to happen again and again and again. The Chinese firms, when they come out, the largest hospital chain in the world will be Chinese, just because the large population, the larger largest mobile health company in the world will be Chinese. And we're going to see this in a number of different areas. I would be very disappointed if our U.S. collective response continued to be point by point singling out companies as opposed to taking a step back and say, "Make the problem bigger, get a group of countries to agree on standards, get a group of countries to agree on what the rules are for access," and then you go to China and say, "Do you want to play or not?" You decide. And it's not like UTO where you get to spend 15 years not following up when your commandments. It's like, "No. You have to prove that you're doing it before you join." That, to me would be a perfectly reasonable approach.

Orlins: Yeah. And by the way, I can say which candidate, but one of the candidates is very much talking about a multilateral approach that this unilateral approach, whether it's on listings or whether it's on data, you name it is counterproductive because it's whack-a-mole. So, if you don't allow the Chinese to go there, so, then they go somewhere else. The listing rules. Banning trainees companies from listing in the United States without getting agreement from Hong Kong, Singapore, Tokyo, and London, hello, it doesn't do anything for the United States. It actually hurts. So, one last question on Facebook then let me go on to Baidu and set the others. Have they given up on China?

Rieschel: They make a lot of money out of China. The Chinese firms spend a fortune with Facebook, advertising on Facebook in other markets. So, they actually have a whole team of people that do nothing but focus on attracting Chinese companies as they are in other overseas markets using Facebook as a platform. So, Google, Facebook Twitter,

they all have a large number of Chinese advertisers, but all in international markets. I have no idea what they're planning to do domestically in China.

Orlins: Melissa, anything on that, or...

Hathaway: I agree, the platform is all about selling ads. And when you think about it, Facebook is the platform of the Philippines and Facebook is the platform in many other countries—that is where they're making their money. They may not even have to get to the billion extra people in China.

Orlins: So, Ali, Baidu, and a lot of the other Chinese technology companies have been mentioned. Can you look down the road and think about what the landscape is going to look for those companies in the United States? I mean, Ali, even though it has not succeeded in a major way still is a significant player, a material player in the United States. Baidu has pretty much [inaudible 00:31:25]. So they are not, but some of the Chinese companies have growing market share. So, what's the landscape going to look like?

Hathaway: I worry that the cloud pieces, the cloud infrastructure part of Clean Networks is very alarming because I think it signals that we would potentially ban those foreign content delivery platforms or infrastructure platforms from being used by U.S. businesses and certainly by the U.S. government.

Rieschel: I think long-term that policy along the lines of what Melissa was saying, I think it hurts our competitiveness. I would like to think that if you stay within the clean cloud, you have different rules and you can look at IP theft, you can look at counterfeit goods on Alibaba, like someone Amazon as well, but calling out Ali incentives specifically, Baidu specifically worries me because I'd like to think that again, companies are going to come be formed all over the world. They're going to be at a scale where we, Americans should have the benefit of there and it shouldn't be based on where they're from. It should be based on their capabilities, the quality of the service. And so, we should have the guideline to say, "If you want to play here, this should be the rules." And that should be, again, focused on the requirements as opposed to the companies. And so, I'm really not comfortable with this whole, you know, you use the term whack-a-mole, this whole idea of every time a really successful company comes up, it hurts our innovation because it gives the U.S. firms a false sense of security. They don't need to worry about competing with this other player. I think that's terrible. It was terrible for venture capital, it's terrible, I think, for the overall health of the U.S. market. So, I would really hope that's not the path we go down.

Hathaway: Yeah. I mean, I think we really need to be striving for transparency, here's what we expect for the market access, here, we need to have this transparency on how you're running the company, how you're handling the data, provide rules of what you can and cannot do with the data, and bring it under a very transparent framework. And that's how we expect other businesses to operate, why not the same in the ICT space?

Orlins: Melissa, you make the TikTok, WeChat, executive order. You put it in the context of an entire program. I wondered when I saw this. This was obviously, this was about four weeks after TikTok apparently played a role in vacant ticket requests for the president's rally in Tulsa. So, the image of a fairly empty huge auditorium apparently was created by

folks on TikTok, not by TikTok itself, but by people using TikTok. Was that a factor in this decision?

Hathaway: I think it certainly raised the attention of the president when... K-Pop actually was where it originated. K-Pop picked it up, TikTok picked up K-Pop. So, they amplified each other. It went viral and people were like, "Buy the ticket and don't show up." So, it was a political embarrassment to the president and he does not react well to any political embarrassment. So, I think it just raised or accelerated the path and raised it to his attention that something needed to be done.

Orlins: A lot of the questions that we've received relate to what is the executive order going to look like that or the two executive orders, one relating to TikTok, one relating to WeChat. Today's "Wall Street Journal" had a front-page story talking about a Zoom call. I don't know if it was a Zoom call, a call between many U.S. businesses that derive significant revenue from a WeChat and that a ban would materially affect and it was anything from General Motors to the NBA that do a lot of their marketing on that. So, the White House no matter what they want to accomplish doesn't want to reduce American's ability to sell within China. So, what do you think this executive order...what is the ban or what they're calling a ban going to look like and now 38 days, 37 days?

Hathaway: Well, the worst-case scenario is WeChat gets pulled out of the app stores and you're not able to use it and that affects me for my relationships in China. That's how I communicate with my colleagues over there. That's how I exchange information. It affects at least 20 million Americans, maybe more than that. And certainly, the Chinese diaspora, it'll affect their relations because that's how they communicate with their families. So, I think you need to think about the second and third-order effects. In addition to the economic aspects, I think you could also see prevention of U.S. businesses from advertising on the platform, or right now, the jurisdiction is really within the U.S. but it does have an extraterritoriality. So, it's unclear what commerce is going to do.

There is a special clause that is important to note that you can't prevent communications. And so, there's a nuance within the emergency powers that you cannot prevent communications and such. So, there are many law firms are saying that if they tried to pull WeChat as a communications channel that it would be blocked or it would go to court and be overturned because of a special clause within the EPA, the Emergency Powers Act that actually excludes you cannot block communications.

Orlins: That's why they've done it in terms of financial transactions that the order said, you can't do financial transactions with Tencent or with ByteDance.

Hathaway: Yeah, but we're talking, right, WeChat though, in particular, was called out in the executive order, which is the communications platform which they're saying is an untrusted app on the app store that it gains unusual access to your phone book, your geolocation, your communications. So, the national security play of banning WeChat is the national security risk of accessing communications of an extraordinary amount of personal data, etc., that goes back to mainland China. That is what the executive order is. But if you go back to, again, the original EPA and other executive order, the parents, right, because we're talking about parents and child of the executive orders that this is where the linkage could be really you can't stop the communications platform. So, and that's important, right? So, I call it a loophole or it's something that if you really

understood these laws and how they all were created, then you're going to have a harder time blocking WeChat than you will TikTok.

Rieschel: Yeah. I think that's right. I also think, if you just look back, history is very much in favor of decentralization of communications. And I think it's, again, when the government comes in and says, "Well, we're not going to let you use this tool," I think everyone suffers as a result from that. We use WeChat in our family, we have a lot of friends in China, we have a lot of Americans use it. We also have a lot of friends in China or in the U.S. who use WhatsApp because they don't trust the communication on WeChat. So, it's a personal choice. And I think that it's a very dangerous path when you start to get down to saying, "We're going to block the use of this tool." All it is is a tool. Happens to be a very, very effective tool. And if they said, "You can use PayPal. Okay. So, you can't use WePAY." That's fine. That's something that if they decided to do that, is there other ways around that? But I think that for the individual users, we should continue to have the ability to use the applications that we choose to use.

Orlins: But isn't WhatsApp blocked in China? You can't use WhatsApp in China.

Hathaway: WhatsApp is blocked in China.

Rieschel: But again, Steve, that's the reciprocity argument. And so, what I'm saying is setting that aside from this standpoint, again, go back to what are the standards we need to create for how we manage each other's data? What are the standards ever countries need to sign up to in terms of not storing data that they should be using, using it for inappropriate purposes. Until we have those standards, that's really the holy grail of what we're talking about and where we need to go. Just blocking the individual companies doesn't really push us in that direction.

Orlins: Yeah. Gary, if you were still... you obviously were a shareholder of ByteDance, I guess, indirectly through the acquisition. You've got shares, but you're no longer a shareholder.

Rieschel: No longer a shareholder.

Orlins: If you still were, would you tell ByteDance to fight this, to just call the bluff, and see if the administration was willing to, in this political season, institute a ban which affects 100 million Americans who might choose to vote on that ban, which you roll that dice, especially given if this is a, for sale to Microsoft or for sale to Twitter back in my equity days, I'd love to be a buyer on a for-sale because I generally got a lot better pricing.

Rieschel: So, first of all, I don't think... it is a gun to the head of TikTok to decide, do you sell, do you continue to go? Sympathy for the investors is relatively low because if the numbers being mooted around \$40 or \$50 billion, people are going to make out like bandits regardless. And they're still going to have the remaining 75% of their stake in ByteDance in whatever 60%, whatever the split winds up being. So, I think the transaction, if it's a \$30, \$40, \$50 billion transaction, I think the investors come out just fine because they're not being forced to divest their shares and the parent. If they were forcing the investors to divest their shares and starting to force U.S. institutions that were investing in foreign venture capital firms to not invest in those, that's a much, much bigger issue. And no one's even thought about having that conversation yet as far as like

until. But I would tell them to because again, you could think about ByteDance could set up a licensing agreement with TikTok to provide algorithms in the future, Microsoft could do a sweetheart deal with them for Azure hosting in all the markets. You could see an economic arrangement where both of these companies would benefit for many years after the transaction should it occur.

Orlins: The last question, then I want to go to what we now have. We got over 40 questions. So, I will go to the questions I promise, but why is the argument? Gary, you made reference to the fact that the owners of these companies are basically American pension funds. So, when we have a for sale and, obviously, if you get a grand slam home run, there were a lot of investments where you struck out and that's part of this venture capital investing. Your home runs make up for the ones that you didn't do so well on. Why is so little made of the fact that when we have these policies, we're punishing teachers, and firemen, and policemen, and everybody else because their pension funds are worthless? Why does nobody really say that?

Rieschel: I think it's because you don't really know what the transaction is, and it's not like you have a deal where the U.S. government's saying, "We're going to enforce a \$10-billion sale as opposed to a \$50-billion sale." I think if you could put real numbers on what the transaction looked like, you might be able to put together a case to say, you were costing the investors, the endowments foundations, and pensions, you're costing this kind of money. Right now, we don't have any idea in terms of what that looks like. So, it's very hard without having hard numbers to say, "What is the disadvantage to the investor base on something like this?"

Orlins: I remember on the Unicom deal, there was an absolute...we knew what the two bids were and the largest of Unocal at that point were CalPERS. And CalSTRS. So, you knew what the impact on each of CalPERS and CalSTRS was based on lower price, but nobody seemed to have no effect whatsoever. Sean Doherty asks, "I have an ed-tech company and was intending on selling products on WeChat and doing customer engagement on TikTok. Are we just not going to be allowed to use these platforms in the U.S. and not be able to sell on these platforms? How is it going to affect the ability of U.S. companies to sell in the Chinese market at all?"

Hathaway: My perspective is that we don't know the answer to the question yet. The secretary of commerce has until September 20th to make a decision about what path they intend to take. And so, I would argue that I would write the U.S. Chamber of Commerce and get them engaged, but I would wait before you make your decisions of what needs to happen. If you were to read the tea leaves, so, the tea leaves would suggest that you're not going to be able to use the platform unless the platform, one is bought by Microsoft or a U.S. company, or like, so...

Rieschel: I would make the assumption the platforms are going to continue to exist. I don't think TikTok's going away and I don't think WeChat's going away.

Orlins: Dan Creston Steve asks, "Our VPNs going to play a role in all this going forward. Will you have to do the opposite of what we do when we're in China, where we use a VPN to get beyond the great firewall, using a VPN in the United States to access these platforms?"

Hathaway: I don't know because it all depends on how the secretary commerce deems the application, because if they application gets put on a list, like the treasury sanctions list, the carriers won't allow for the connection to happen. They would have to block the VPN.

Orlins: Because it will just be, yeah.

Hathaway: It'd be on the entities list. So, it would be illegal for them to allow for the connection.

Orlins: Yeah. So, many questions. Reading through them. We'll try to retaliate.

Rieschel: Sure.

Orlins: If so, what will be that retaliation?

Rieschel: Well, I've seen them discuss where they'll ban Microsoft in China.

Orlins: Yeah. That would be difficult.

Rieschel: That would be difficult given the pervasiveness of the Microsoft software and tools that are in China, as well as I think on this, the Chinese response has actually been relatively quiet on this. You have the usual CGTN articles, you have the usual "Global Times" articles, but I haven't seen anything specifically suggested. And usually, by this point, the Chinese would have come up with something, "Well, if you do this, we're going to go ahead and do this." And I just haven't seen anything like that coming up yet. It certainly doesn't help the overall U.S.-China relations and I think, again, it creates this feeling that it's us versus them, U.S. versus China. And I think that that's really, if you look at policy going forward, what we need to do is step away from that and create a different construct for that discussion. And that's certainly not going to happen in the next 38 days. So...

Hathaway: I agree with that. I don't think it's going to happen between now and the election. So, I would expand it from 38 days to when they secretary commerce is going to come out to November 4th.

Orlins: This is somebody called professor Jean, There's a litany of concern about China's ability to monitor U.S. communications relative to security concern. Does the United States have similar ability to do the same in China? I.e. Cisco has, I don't know if this is true, it's 70% share of the Chinese internet infrastructure market?" Either of you.

Rieschel: So, Cisco, I don't think their share is 70% anymore. Huawei and ZTE are much larger players I think than Cisco in China now, but the broader point is the U.S. has taken advantage of the NSA capabilities globally for a long time. This is why, again, I think it's so much about with Huawei, so much about with Cisco, etc. So much of it is about how you manage your network. It's not just having the equipment installed. It's really about the administration of the services that that network is providing. And there's also the sense of isn't more important at the edge, the discussion with the UK and the U.S. about Huawei at the edge as opposed to the core. So, could the US be spine? Technically, probably, isn't likely, no, but would they have that capability, could you make that case? Cisco is a pretty sophisticated company. The NSA's are pretty sophisticated organization.

I have no direct knowledge one way or the other, but if you look at the history of the NSA, they've been pretty good about collecting data on people all over the world. And Melissa, what do you think?

Hathaway: I think the intelligence collection apparatus of our respective countries is strong. And I think the broader difference, at least from the United States perspective is that Chinese law compels Chinese companies and organizations to participate on behalf of the collection when directed. And that's part of the fear in the United States is that there are five laws that basically compel people, organizations, and companies to do what they are told to do, or there'll be dire consequences. And that's, I think so, that's an all of nation surveillance apparatus, which is not the same in the U.S.

Orlins: But either country has the capability to do it and either country, I guess, in the U.S. you would need a warrant to compel the transfer of data from outside the United States, but you could get that one from a FISA court likely.

Hathaway: Yeah. There's a whole process by which you get data. You have to go about either a warrant, a national security letter through the FISA court, etc., in order to get that data. Apple would be a really good example of how they have blocked the ability of the U.S. government trying to gain access to the data that they have stored. So, and Microsoft and many other companies have the Microsoft Cloud case of Ireland, there's many cases where our companies will actually fight the United States government to protect their customers' data, and maintain, and ensure that it's not within the arms reach of the U.S. government.

Orlins: There is, in discussions I've had both with the NSC and State, there is an assumption that a Chinese company would not resist that request. I actually don't agree with that. I think there would be discussions between the, I mean, ministry of state security and the company about how to do this because for the company, in terms of their business overseas, whether it's Ali or whether it's anybody else, it's existential because once they took that data and they transferred it back to China, their existence outside of China is over. So, they would argue, you guys want this, but it's going to end up costing us X tens of billions of dollars because our market is going to close. And the idea that the Chinese Communist Party doesn't care about that is wrong. So, the whole analysis by our government that this just would happen arbitrarily and capriciously is wrong. It's not how the Chinese system works, but there's not tons of folks in our government who have experienced China firsthand.

Rieschel: I think the key word you used was capricious. So, does it happen in some focused ways? I'm sure, but in the hundreds of companies we invest in China, you talked to those entrepreneurs, they take the approach that most of the Silicon Valley entrepreneurs do, which is not really to get too close to the government. Their goal is not to be in the government's pocket. And so, will it occasionally happen in certain areas? Sure. But it happens on the U.S. side as well. In China, as Melissa was saying, it reaches longer and far more coercive in terms of what they can, what they probably have and will specifically request, but I don't know too many entrepreneurs unless you're in the military-industrial complex and wake up really excited about involving the government in their business, whether it's China, whether U.S.

Hathaway: Yeah.

Orlins: Here's a question from Gary Wong. I have no idea what the answer is. "Does the scope of the executive order include potentially forcing U.S. semiconductor sales to Chinese server OEMs that supply Alibaba or Tencent to stop?"

Hathaway: Well, not yet, but there is the expansion of the export controls to block the sale of semiconductors made with U.S. technologies abroad was used and is being used to, I would say, "choke" the supply to Huawei. So, if you look at the providence of the things that we are doing, it's possible. I haven't heard it discussed in this context, but when you think of Clean Network initiative and the different things that's around 5G and what we've done with Huawei, what we've done with ZTE, what we've done with the entity list, we, the U.S. government, the Clean Network initiative that it's certainly you could imagine that it would be in scope. Yes.

Orlins: Question from Jennifer See. This problem. Well, either of you. "Although I've heard often that there's no record of TikTok, ByteDance turning over data to the Chinese government, is that verifiable or is it so much of a black box that we really wouldn't know?"

Hathaway: There is a lack of transparency of when an entity might be served or asked to hand over data in China or to the Chinese authorities. It would have to flow down from ByteDance to TikTok and then flow back up. So, there is no transparency on whether it has happened, although the TikTok executives have all said that it has not happened, and you have to believe them, especially all of the new executives that have been brought in are people who are very well-respected from U.S. industries. TikTok is doing transparency reports on the safety of its platform, the data protection mechanisms similar to other social media platforms where they have a monthly or maybe even more often submission. And they've agreed to have extreme transparency in Europe as part of the European initiatives that are happening. So, we just don't have transparency in what happens in China.

Orlins: Again, this is a good one, as people who were on at the very beginning of the call, when we were waiting for people to get on, we heard Gary shot a rattlesnake. So, this question is from Tom and he says, "What led up to the shooting of the rattlesnake and was this, in any way, a metaphor to the U.S.-China relationship today? The change is now.

Rieschel: Rattlesnakes are really bad if you're out fishing or someone has a horse on your property. So, we don't like rattlesnakes.

Orlins: But I'm not sure if we like the state of the U.S.-China relationship, I guess, that was needed. But these changes being put in place today by the Trump administration can, and will they be on wound if there is a change of administration?

Hathaway: Executive orders could be superseded by another executive order that changes or softens the policy. The thing that's important to watch is which of the agencies are given the authority to take action? So, for these executive orders, really the power and the authority exists in the department of commerce. For other sanctions, the power and authority lives with secretary of treasury, and that certainly who chairs the committee for foreign investment in the United States. So, it's really important to track where the authority exists of what agency it is, and then who's going to be the political

appointee and what is their position as they come in, if there is a change of administration. Very important this is going to be personality-based.

Rieschel: I think that that's exactly right. And the only thing I would add is the rhetoric is going to get worse between now and November. There is no benefit for Biden-Harris to come out and be seen as being friendly to China or accommodative to China over the course of the next two to three months. There's just no benefit in that. And so, what I can say is that there's a number of groups talking about U.S.-China technology policy, U.S.-China trade policy, and inevitably the underlying themes are just should we have something that's more multilateral? Should we have something that pulls back and tries to look at what issue you're trying to solve as opposed to individual companies? So, my assumption would be the Biden administration would be more inclined to look at things that way, but you're not going to hear that. I don't think you're going to hear that as a political rhetoric or any close to that the next three months.

Orlins: I think the Chinese... yeah. I think Gary, you said that the response has been rather well-calibrated that they have not overreacted too much of it with the exception of Hong Kong, where it seems they're going full tilt, but I think there's a belief that whether President Trump is reelected or whether Biden is elected, there will be a more rational China policy in the United States after the election. So, they're prepared to wait to see, President Trump could overrule some of these things are clearly a president Biden will have a more multilateral approach than what we're seeing today from the Trump administration. From Gustav M. "Can we expect a rise in pressure on Europe to ditch China's tech solutions?"

Hathaway: The British announced the D-plus 10 initiative that was specific to Huawei. So, it's the G7 plus 3, which the three is India, Australia, and South Korea where the democracies, these 10 democracies would work together toward a more holistic 5G strategy pursuing the open radio access network standards and working together on 6G standards and technology development. So, that was announced by the UK and has been endorsed by all of those 10 democracies and I expect that to be swept into a broader context. So, you could potentially see because that is about 5G. So, when you look at the five areas of the Clean Network initiative, you could imagine the D10 championing the Clean Network initiative broadly.

Orlins: From Dan Rosen. "So, going with TPP, that is reciprocity just with a bigger catchment area." I think that you could argue that's the case.

Rieschel: No. I don't think that's really where this goes. The reciprocity, again, you were a very specific response. If you don't let us do this, we can do that when both Melissa and I were fans of the idea of a group of companies saying, "This is the way that we want data treated and handled. This is the security aspects of that." And then you choose whether you join or not. There's no penalty to a particular company. You just don't get the benefits of being part of the group. So, I suppose in some extension of how you'd think about reciprocity, you could consider it that way, but I view it much more as really establishing global standards, which is I triple use done for year. There's so many examples where you've had the entire world if you're going to manufacture a particular product, you're going to provide a particular service. You have to agree to abide by certain rules. So, it's really creating more of a broader rules-based system that people opt-in or out of.

Hathaway: Yeah. Then it's about data and the data flows and transparency about who owns it? How is it collected? How is it used? How is it repurposed? Who monetizes it? I mean, even the OECD digital tax is all about data flows and infrastructure who pays for the infrastructure upon which the data flows over the top services. So, when you started to look at a lot of the things that are going on, even between the United States and Europe, or within OECD, or Asia, Europe, us, it's we're going to have to get to a roadmap of how we're going to agree upon the data flows and cross border data transfers, etc., and the transparency and the data protection and the rules by which we're all going to agree it's going to happen.

Rieschel: Europe's problem is they're going to have to figure out how to get some dogs in this hunt. Right now, there's really no European company that's participating in. If you look at the 20 largest tech companies on the planet, there's really no one on the European side that's stepping up as being something that would be taken seriously as a leader in those areas. That's an entirely different issue I think.

Orlins: Well, you might argue that some of the rules that the Europeans have put in place stifle innovation, stifle the creation of big tech companies.

Rieschel: Well, perhaps. I just think that means that they have a very vested interest in making sure that the rules are very, very accommodating for new entrance. And I think it also means that they're likely to be much more focused on the social side of the issues. They are the pure economic side.

Orlins: Chris Mark asks. "Is it fair that your view is that the stated rationale for these actions that this is a national security imperative is false?"

Hathaway: If that was directed at me, I...

Orlins: Both.

Hathaway: Yeah. Is it a national security issue? We are currently defining national security issues in the U.S. very broadly. I could argue that so is China. And so, I'm sorry. I do have two dogs. So, a lot of questions that I have a Golden Retriever and I have an Australian Shepherd mix, and she's very unhappy right now. But anyway, it's a national security is being defined very broadly. So, what is the national security issue with WeChat? WeChat is about communications, about tracking people, it's about the geolocation, is about access to a lot of data and the same thing for TikTok, but differently, it's more of gaining access to all of those videos to profiling 100 million Americans and then maybe using that data to really enhance the algorithms that are already exquisite in that platform. So, it's a learning kind of thing. And that's maybe more of a tech fear, a technology fear and a future fear than it is more broadly a current issue. Are they national security? When we define things very broadly as national security issues as the current government has in Department of Justice, they have categorized these as national security issues. And again, I would say that China has also a very broad definition and sometimes not transparent definition of what national security is as I have experienced.

Orlins: Yeah.

Hathaway: Sorry for my dogs.

Orlins: Someone said, "Please introduce the dog." And Kenny Lynn asked that in his question. Well, our digital economy dialogue, of course, calls in its consensus for a narrowing of the definition of national skirting that we actually agree with the Chinese on what truly is national security and don't go down this path of just having an ever-widening definition, which brings so many companies into it. CT Janssen, asked, "Besides Alibaba, Baidu, Tencent, do you think there are other...and we've mentioned trying to Telecom, China Unicom, are there other Chinese companies that you think are targets?"

Rieschel: Go ahead, Melissa.

Hathaway: Yeah. I don't know what other company. I think that any company that is China headquartered and that shows promise or issues is definitely going to be on a list. If you look at the entity list, there were I think 10 or 12 companies that were added in the first week of July to the entity list for export controls. And I know that from the current or the amended version of [inaudible 01:07:18] called FERMA, Foreign Investment Restrictions in the United States, there are an awful lot of AI companies that have been put on that list and restrictions in that area. Over to you, Gary.

Rieschel: So, I think that it requires something to get to a certain scale in order to, I think, get that kind of notice. And so, DJI, if you want to pick on again, the world's largest drone company, huge market share, and very successful. I've seen them mentioned in some of those conversations. But I think that again, the big hope is that we're going to move away from company by company-specific designations into something that's a little more broader and thoughtful, but we'll have to see.

Orlins: I want to read one comment and then ask one final question because we're out of time. And this is interesting. Anna Ashton who's at the U.S.-China Business Council writes, "Commerce has reportedly not going to issue draft implementing regulations for comment. And when reaching out to commerce to discuss the executive orders, wow. Career officials have conveyed they are banned from discussing it and all communications and queries must go to the office of the deputy secretary of commerce. How unusual is this when agencies are tasked with implementing executive orders?" I mean, Melissa, you were in the heart of that bureaucracy. You probably have a view on that.

Hathaway: Well, again, I would point you back to the original executive order on ICT and supply chain because that's where it goes to. And there is a clause in that says... well, that did go out for public comment in December with comments due back in January before the rule went, but in that executive order, it says that the department of commerce can do a no-notice, basically decision for national security reasons and without any comment, etc. So, again, the two orders that came out last week really point back to the original order of May, 2019. And if there are any future orders that are coming out in the future, and however, I would always go back to the parent executive order that is deriving the authorities from.

Orlins: The last question because we're out of time, but I could go on for hours, but I find these issues simply mesmerizing. Where does this leave U.S.-China relations? What does this mean? We've had so much talk about the coupling and this is actually a major

league step towards the coupling. So, each of you, if you can do it in 60 seconds, that would be great. Gary?

Rieschel: So, this is a major step forward of decoupling. I actually don't think so. I think that if you were to say you're not going to allow trade or there's a lot of discussion that you're going to force a Chinese internet versus an English language internet. I really see those as false choices. I think we're just at one of those moments where for the first time, you're starting to see apps, technologies come from overseas or at a certain scale that the existing large providers in the U.S. look at. Whether it's a government saying this is a security threat, whether it's a company saying this is a business threat, I think we're dealing with some of this for the first time. So, I expect a certain amount of awkwardness of a certain amount of a tit for tat, I guess, response on that. I am one of the folks who would say there's simply no way to decouple at least in technology. There's really no way to distinguish Chinese AI from U.S. AI, young line technologies, autonomous vehicles, etc. What you can do is you can restrict going back to... it's all about the data. It's all about the access to data, management of data, and what you use the data for. That's where the real discussions need to be. The rest of it, I think is a lot of noise at this point.

Orlins: Melissa.

Hathaway: Well, I guess I do see this as part of the journey of the decoupling that started years ago and has really has definitely accelerated with this administration. I agree with Gary and principal that this is going to be about the data and the data governance mechanisms that we set up, but I believe that right now, the decoupling is being accelerated based on market access and what the United States sees is unfair trade practice is unfair mechanisms and to the extent that the decoupling is happening, it's happening to force a hand, whether or not that's going to be successful is to be determined, but the system is changing. And I think that we'll have more companies at least in the next 70 some odd days are going to be affected.

Orlins: Gary, Melissa, I can't thank you enough for giving so generously of your time and really creating what I think is a fabulously fascinating, informative program. This has been really, really terrific. We've run over. I noticed because I see participant totals that virtually nobody signed off in the course of this 75 now, 82 minutes, but it really was just great. I can't thank you enough for participating and I can't thank you enough for your continuing support of the national committee and thank you all for joining us.

Rieschel: Thank you.

Hathaway: Thank you.

Rieschel: Take care.

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