

The Supreme Court Update - January 17, 2025

by Ian Blodger, Jessica M. Leano, and Brock Huebner

The Supreme Court of the United States issued one decision today:

TikTok Inc. v. Garland, Firebaugh v. Garland, Nos. 24-656, 24-657: The Supreme Court upheld a federal law that would make it unlawful for companies in the United States to provide services to, distribute, maintain, or update TikTok unless its U.S. operation is severed from Chinese control. The Protecting Americans from Foreign Adversary Controlled Applications Act (the “Act”) identifies China and three other countries as “foreign adversaries” and bans the use of apps controlled by those countries as of January 19, 2025. TikTok, ByteDance, and content creators sought an injunction blocking the Act’s enforcement pending the Court’s review. The Court granted the petitions and directed briefing on whether the Act, as applied to the petitioners, violates the First Amendment. In a per curiam opinion, the Court first assumed that the Act is subject to First Amendment scrutiny. In determining what level of scrutiny to apply, the Court found the law “content neutral” and subject to intermediate, rather than strict scrutiny because it imposes TikTok-specific prohibitions due to a foreign adversary’s control and does not target particular speech based on its content. The Court also found the Act supported by a content-neutral justification of preventing China from collecting vast amounts of sensitive data from 170 million U.S. TikTok users. The Court then applied and found intermediate scrutiny satisfied because the challenged provisions further an important government interest unrelated to the suppression of free expression and do not burden substantially more speech than necessary to further that interest. Justice Sotomayor concurred in part and concurred in the judgment, finding no need to assume the First Amendment applied to the Act when the Court’s precedent “leaves no doubt that it does.” Justice Gorsuch concurred in the judgment.

View the Court's [decision](#).

Related People

- Ian Blodger
- Jessica M. Leano
- Brock Huebner

Related Capabilities

- Appellate