IN THE IOWA DISTRICT COURT FOR POLK COUNTY

STATE OF IOWA ex rel. ATTORNEY GENERAL BRENNA BIRD, Plaintiff, vs. TIKTOK INC.; TIKTOK LTD.; TIKTOK PTE. LTD.; TIKTOK USDS JOINT VENTURE LLC; BYTEDANCE LTD.; and BYTEDANCE INC., Defendants.	CASE NO. EQCE089810 **RULING ON DEFENDANTS' MOTION TO DISMISS COUNTS 10 AND 11 OF AMENDED PETITION**

I. STATEMENT OF THE CASE

Videos on TikTok are short. So far, this case hasn't been. It has not progressed beyond motions to dismiss, but it already has a lengthy procedural history.

The State of Iowa initially filed its petition on January 17, 2024 (docketed at D0001). The State alleged the Defendants, who are collectively responsible for operating the social media application and platform known as TikTok,[1] "engage in deceptive and unfair practices regarding [TikTok]'s age rating and the age-appropriateness of its content." *State ex rel. Bird v. TikTok, Inc. (TikTok Iowa)*, 30 N.W.3d 732, 735–36 (Iowa 2026). The petition alleged 9 counts of deceptive and unfair practices.

TikTok moved to dismiss the petition in its entirety on three grounds: (1) personal jurisdiction, (2) failure to state a consumer fraud claim, and (3) immunity

[1] As in a previous appeal, "none of the defendants argue for distinct treatment." *State ex rel. Bird v. TikTok, Inc.*, 30 N.W.3d 732, 735 (Iowa 2026). Thus, the Court continues to refer to the group of collective Defendants as TikTok.

under Section 230 of the federal Communications Decency Act ("Section 230"). *Id.* at 736. The Court "denied the motion to dismiss, concluding that it had personal jurisdiction over the TikTok entities, that the State had pleaded a valid claim, and that section 230 did not apply" to the specific counts the State raised. *Id.* TikTok appealed only the personal jurisdiction issue. *See id.* The Iowa Supreme Court affirmed the denial of the motion to dismiss counts 1 through 9. *Id.* at 741.

After remand, the State filed an amended petition on April 10, 2026 (D0358). The amended petition added a new defendant (TikTok USDS Joint Venture LLC) and two new counts (10 and 11). Count 10 alleges TikTok (including the new defendant) has created and deployed addictive features designed to maximize users' time spent on TikTok, yet has not disclosed the platform's addictive nature to Iowa consumers. Count 11 alleges TikTok (excluding the new defendant) has misrepresented the security of its user data and failed to warn or disclose that user data collected on TikTok could be shared with or otherwise accessed by the Chinese government.

As it did with respect to Counts 1 through 9, TikTok moved to dismiss Counts 10 and 11. TikTok asserts the First Amendment to the United States Constitution bars each count. TikTok further contends federal law otherwise bars or preempts each count. As to Count 10, TikTok asserts Section 230 immunizes TikTok from liability for the methods or features it uses to publish or display content to users. As to Count 11, TikTok contends all issues of national security are the sole province of the federal government, and therefore, any individual state is preempted from seeking to impose liability for any risk related to a foreign country accessing TikTok

users' data. TikTok also asserts the State has not sufficiently pled a claim for injunctive relief because it expressly exempted TikTok USDS Joint Venture LLC from Count 11.

A hearing on TikTok's motion to dismiss Counts 10 and 11 took place on August 21, 2026. TikTok was represented by attorneys Anders Linderot and David Yoshimura. The State was represented by attorneys John Ohlendorf and Daniel Barnes. After considering the arguments and the parties' briefs, the Court now enters the following ruling.

II. STATEMENT OF FACTS

"In ruling on a motion to dismiss, the court accepts the facts alleged in the petition as true." *Mehmedovic v. Tyson Foods Inc.*, 21 N.W.3d 412, 425 (Iowa 2025). The Court also considers the facts the Iowa Supreme Court took as true in the previous appeal, which was also from a ruling on a motion to dismiss and which distilled the basic facts about TikTok:

> [TikTok] has become a staple of life for a vast swath of the American population, and particularly for teenagers. . . .
>
> Users access the TikTok platform through an app, typically downloaded on a phone or tablet. The TikTok app offers short videos created and uploaded by users, often set to popular music, that are then made available to other users to view and react to. The TikTok app was the most downloaded app in the world in 2022; the platform has over a billion global users.

TikTok Iowa, 30 N.W.3d at 735.

There is no real dispute about this bird's-eye view of how TikTok works. Instead, the parties' dispute at this stage centers on much more granular topics related to TikTok's algorithm, internal features, and terms of service.

A. *Addictive Features.*

The amended petition alleges addiction "is TikTok's business model." Several other state attorneys general have brought similar claims against TikTok. *See, e.g.*, *TikTok, Inc. v. Eighth Judicial Dist. Ct. (TikTok Nevada)*, 578 P.3d 640, 644 (Nev. 2025) ("The State alleged that TikTok knowingly designed its social media and short-form online video platform to addict young users."). In this context, "addiction" means keeping users engaged, scrolling, and viewing content for as long as possible so that TikTok can show them more ads and thus maximize advertising revenue. *See* Brett Frischmann & Peter Ormerod, *Regulating Manipulative Design is Not Preempted by CDA 230 or the First Amendment*, 75 Emory L.J. 1101, 1104 (2026) (defining tech engagement as inducing "users to spend as much time on the app as possible" to enable "data collection and advertising"). "Each interaction a user has on TikTok—watching a video, following an account, leaving a comment—enables [TikTok's] recommendation system to further tailor a personalized content feed." *TikTok Inc. v. Garland*, 604 U.S. 56, 63 (2025) (per curiam).

Collecting data from users as they view a continuous stream of content enables TikTok to program more targeted advertising or other content based on individual user characteristics. *See Anderson v. TikTok, Inc.*, 116 F.4th 180, 182 (3d Cir. 2024) (noting TikTok's "algorithm curates and recommends a tailored compilation of videos . . . based on a variety of factors, including the user's age and other demographics, online interactions, and other metadata"); Kyle Langvardt, *Regulating Habit-Forming Technology*, 88 Fordham L. Rev. 129, 137 (2019) ("[T]argeting requires

advertisers to collect as much data as possible about the user—not only demographic data, but minute-by-minute data about the user's location, mood and desires."). One example of targeted advertising or content occurs based on location data; if a user's location data indicates they are in Iowa, TikTok may suggest or "pre-load" content about other things nearby—perhaps a university, a business, or an upcoming event.

Over time, habitual TikTok users can become excessive or compulsive users. Habitual use can be harmful, especially to children and teenagers with developing brains who may lack the ability to self-regulate. The potential harm is exacerbated because younger users comprise a significant portion of TikTok's user base. *See TikTok Iowa*, 30 N.W.3d at 735 (noting TikTok has become popular, "particularly for teenagers"). In short, "the State alleges that TikTok exploits young users' psychological vulnerabilities by intentionally designing addictive features, causing significant harm to youth mental health." *California v. TikTok Inc.*, No. 4:24-CV-07942-YGR, 2025 WL 683730, at *1 (N.D. Cal. Jan. 28, 2025).

B. *Data Security*.

The amended petition also alleges the Chinese government can readily obtain any user data TikTok collects—including personal information. But, the State contends, TikTok obfuscated this reality, denied or omitted from its terms and public statements such a connection with China, and instead deceived users into believing any personal data they shared would be secure. The State argues the creation of TikTok USDS Joint Venture LLC to establish a domestic controlling entity for TikTok does not eliminate the past deception. The amended petition also alleges TikTok

misrepresented to Iowans both (1) the Chinese government's ability to access TikTok user data, and (2) the risk of that happening.

III. LEGAL STANDARD

Motions to dismiss "view the petition in the light most favorable to the plaintiff." *Sanford v. Manternach*, 601 N.W.2d 360, 363 (Iowa 1999). Any doubts are resolved in the plaintiff's favor. *See Young v. HealthPort Techs.*, 877 N.W.2d 124, 128 (Iowa 2016).

IV. ANALYSIS

Motions to dismiss can serve a valuable purpose in narrowing or clarifying issues or claims. However, the standard for dismissal is high, and under that standard, the State's claims in Count 10 and Count 11 may proceed alongside the other nine claims. TikTok's motion to dismiss Counts 10 and 11 is GRANTED IN PART and DENIED IN PART.

A. *Section 230 does not bar Count 10.*

Under Section 230, "[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider. 47 U.S.C. § 230(c)(1). An information content provider means any person responsible, in whole or in part, "for the creation or development of information provided." *Id.* § 230(f)(3). "[N]o liability may be imposed under any State or local law that is inconsistent with" Section 230. *Id.* § 230(e)(3).

Section 230 "effectively immunizes website operators from liability for third-party content, material, or speech that is posted on the operator's website." *TikTok*

Nevada, 578 P.3d at 649. But it is not "a general immunity from liability deriving from third-party content." *Barnes v. Yahoo!, Inc.*, 570 F.3d 1096, 1100 (9th Cir. 2009).

Instead, Section 230 "provides internet platforms with limited legal protections." *Henderson v. Source for Pub. Data, L.P.*, 53 F.4th 110, 119 (4th Cir. 2022). Immunity attaches here if (1) TikTok is an interactive computer service; (2) Count 10 seeks to treat TikTok as a publisher or speaker; and (3) Count 10 seeks to hold TikTok liable for information provided by another content provider. *See TikTok Nevada*, 578 P.3d at 650 (summarizing these elements).

There is no dispute about the first element. The State agrees TikTok is an interactive computer service. *See State ex rel. Jackson v. TikTok Inc. (TikTok NC)*, No. 24CV032063-910, 2025 WL 2399525, at *6 (N.C. Super. Ct. Aug. 19, 2025); *see also Anderson*, 116 F.4th at 183 n.6 (concluding TikTok is an interactive computer service under Section 230). However, the parties dispute the second and third elements.

For example, as it did in Nevada, TikTok asserts here "that designing algorithms and making decisions about the structure and operation of a social media platform inherently entail choices about what content can appear, and those types of choices fall within the purview of traditional publisher functions." *TikTok Nevada*, 578 P.3d at 650. Thus, in TikTok's view, Count 10 of the amended petition *does* seek to treat TikTok as a publisher because deciding what content to display and how or when to display it—even if done through an algorithm to maximize user engagement—is an editorial decision. In other words, TikTok views the State's claim

as alleging that "sustained viewing of third-party content leads to unhealthy addiction." *Id.* And this necessarily requires consideration of the content itself, which means the claim treats TikTok as a publisher and seeks liability based on others' content.

This argument does not prevail. "Section 230 uses the word 'publisher' in its common-law sense. . . . Thus, when [S]ection 230 says not to treat an internet platform 'as the publisher or speaker of' others' content, it means not to burden the platform with traditional publisher liability. The statute's reach ends there." *TikTok NC*, 2025 WL 2399525, at *6. Under Section 230, a claim treats a person as a publisher or speaker "when it (1) makes the defendant liable for publishing certain information to third parties, and (2) seeks to impose liability based on that information's improper content." *Henderson*, 53 F.4th at 120–21.

Count 10 of the amended petition does not do either. The claim does not seek to make TikTok liable for publishing information, but rather for designing a platform that encourages or even causes addictive or compulsive use. *See* Frischmann & Ormerod, 75 Emory L.J. at 1119 (recommending that "primary harms like addiction, manipulation, habituation, and compulsion" be "disentangled from content-based secondary harms such as exposure to pro-eating-disorder content"). In turn, Count 10 of the amended petition does not seek to impose liability based on any specific clip, but rather on the platform's baked-in features irrespective of content.

Together, this means the State's addictiveness claim, as pled, does not treat TikTok as a publisher or speaker. *See Lemmon v. Snap, Inc.*, 995 F.3d 1085, 1091

(9th Cir. 2021) (concluding a claim did not treat a provider as a publisher or speaker when the claim turned on design rather than content). "To be held liable for information 'as the publisher or speaker' means more than that the publication of information was a but-for cause of the harm." *Henderson*, 53 F.4th at 122. Here, Count 10 treats TikTok "as a products manufacturer" rather than a publisher. *Lemmon*, 995 F.3d at 1092; *see also TikTok NC*, 2025 WL 2399525, at *7 (finding an analogous claim against TikTok in North Carolina "has more in common with products liability than publisher liability").

In Iowa, just as in Nevada, the State's addictiveness claim "does not seek to hold TikTok liable for any third-party content that it publishes." *TikTok Nevada*, 578 P.3d at 651. Indeed, Count 10 doesn't seek to hold TikTok liable for any content at all. Rather, the amended petition's references to specific examples of harmful or inappropriate content merely support (1) other claims that are not at issue in this motion to dismiss, or (2) the State's overall assertion that TikTok knows compulsive use can endanger young users. *See id.* (finding no Section 230 immunity when the State challenged "the design features that TikTok implements to keep users on the platform as long as possible, no matter the type of third-party content that may appear"); *see also Doe 1 v. Twitter, Inc.*, 148 F.4th 635, 645 (9th Cir. 2025) (finding a product-design claim not barred by Section 230 because the deficiency could be rectified "without monitoring, removing, or in any way engaging with third-party content"); *State v. Meta Platforms, Inc.*, No. 23-CV-4453, 2024 WL 3741424, at *5 (Vt. Super. Ct. July 29, 2024) (concluding Section 230 did not bar Vermont's claim against

a social media company "for intentionally leading Young Users to spend too much time on-line").

The Court previously denied (D0323) TikTok's motion to dismiss Counts 1 through 9 on Section 230 grounds. The Court concluded the State's claims were related to things other than the specific content created by third parties. The same conclusion applies to Count 10.[2] As pled, Count 10 alleges TikTok intentionally designed its platform to be addictive. This claim does not turn on the content of any individual clip viewed on TikTok, nor does it seek to hold TikTok liable for the content it shows to users.

Rather, Count 10 turns on TikTok's design decisions irrespective of what content is ultimately "served" to users. *See Doe ex rel. Roe v. Snap Inc.*, 88 F.4th 1069, 1071 (5th Cir. 2023) (Elrod, J., dissenting from denial of rehearing en banc) ("Nowhere in its text does Section 230 provide immunity for the platforms' own conduct."). That distinguishes this case from a separate case the State brought against Roblox Corporation, where the Court concluded Section 230 barred some claims involving addictive gameplay. *See State v. Roblox Corp.*, No. EQCE092346, Ruling on Motion to Dismiss at 11 (Iowa Dist. Ct. Polk Cty. May 13, 2026).

[2] Courts in several other jurisdictions have reached similar conclusions. The State's resistance to the motion to dismiss (D0370) attached decisions on similar or identical questions from at least fifteen other states. All these decisions conclude Section 230 does not bar claims brought by the government asserting TikTok or other social media companies designed addictive features. These decisions are not binding, of course, and some of them are not very detailed, but the relative unanimity among them is persuasive. *Cf. State ex rel. Att'y Gen. v. Autor*, 991 N.W.2d 159, 166 (Iowa 2023) (noting most courts in other jurisdictions addressing consumer protection actions reached the same conclusion as Iowa on the relevant question).

Further record development may buttress TikTok's argument that the content TikTok presents is inextricable from the programming features used to present it, but Section 230 does not bar this claim at this stage of pleading.

B. *Allowing the State to pursue Count 10 does not violate the First Amendment.*

The First Amendment to the United States Constitution protects freedom of speech. One way it does so is to protect the editorial function against undue intrusion. "An entity exercising editorial discretion in the selection and presentation of content is engaged in speech activity." *Moody v. NetChoice, LLC*, 603 U.S. 707, 731 (2024) (cleaned up). This is equally true "when the content [being presented] comes from third parties." *Id.* "Deciding on the third-party speech that will be included in or excluded from a compilation—and then organizing and presenting the included items—is expressive activity of its own." *Id.*

TikTok relies on *Moody* and contends that because Count 10 seeks to hold TikTok liable for design features TikTok uses to present content to users, the claim invades the editorial function and violates the First Amendment. After all, *Moody* confirms that social media platforms "are indeed engaged in expression" when it comes to editorial judgments informing a content moderation policy. *Id.* at 716, 738. TikTok particularly relies on *Moody*'s statement that when social media platforms "decide which third-party content [the] feeds will display, or how the display will be ordered and organized, they are making expressive choices." *Id.* at 740.

But *Moody* involved Texas and Florida statutes specifically limiting content moderation policies affecting social media feeds. Thus, its holding is that "the First

Amendment offers protection when an entity engaging in expressive activity, including compiling and curating others' speech, *is directed to accommodate messages it would prefer to exclude*." *Id.* at 731 (emphasis added). That is not the scenario here, and *Moody* expressly did not address "feeds whose algorithms respond solely to how users act online—giving them the content they appear to want, without any regard to independent content standards." *Id.* at 736 n.5. By contrast, Count 10 of the amended petition specifically *is* about TikTok's algorithms and design features that create this type of feed. *See id.* at 746 (Barrett, J., concurring) (opining that the "First Amendment implications . . . might be different" if "a platform's algorithm just presents automatically to each user whatever the algorithm thinks the user will like"). *Moody* thus does not answer the question in this case directly. Instead, the question is whether Count 10 targets TikTok's expressive activity. The First Amendment is only implicated if the answer to that question is yes.

However, as pled, the answer is no; Count 10 does not target TikTok's expressive activity. "[A]n entity engaged in expressive activity when performing one function may not be when carrying out another." *Id.* at 732 n.4 (majority opinion). *Moody* merely stands for the proposition that the First Amendment prohibits "the government from forcing a private speaker to present views it wished to spurn in order to rejigger the expressive realm." *Id.* at 733. That is expressive activity; design features, at least at this stage of pleading, are not, and *Moody* therefore does not deal with the scenario here. *See id.* at 736 n.5. The State's petition sufficiently pleads that TikTok's algorithm and other content-serving features do not convey TikTok's

own expressive message but rather accommodate and anticipate "user preferences and propensities." *TikTok NC*, 2025 WL 2399525, at *10.

A recent example is a useful comparison. California passed a law targeting "addictive feeds," and social media companies sought to enjoin that law. *Meta Platforms, Inc. v. Bonta*, No. 5:24-cv-09792-EJD, 2026 WL 2260373, at *2 (N.D. Cal. Aug. 5, 2026). The United States District Court for the Northern District of California considered "the outer limits of when an algorithm-based feed is expressive." *Id.* at *4. It concluded social media personalized feeds are not expressive; instead, they "rely on predictive algorithms that incorporate users' past watch history and other data and then suggest content that the algorithms anticipate will be engaging, or 'interesting,' to users. [The] decision to rely on these algorithms' number-crunching capabilities is not an expressive judgment." *Id.* at *5. In other words, social media companies "are not making any decisions about what content will be 'interesting,' because they are merely relying on predictive modelling to assess what users' characteristics and history on the platform suggest will keep these same users engaged. This decision is not an 'expressive' message; it is merely a mirror that reflects back to users their own perceived interests." *Id.*

This logic is persuasive. The question is considerably narrower than whether "a particular entity . . . is generally engaged in expression." *Moody*, 603 U.S. at 748 (Jackson, J., concurring). Instead, the "right level of specificity" involves evaluating "how the regulated activities *actually function* before deciding if the activity in question constitutes expression and therefore comes within the First Amendment's

ambit." *Id.* at 748–49. Here, the petition pleads facts supporting an inference that the algorithm dictating TikTok's social media feed does not "convey an expressive message or reflect human editorial judgment." *Meta Platforms*, 2026 WL 2260373, at *9; *see also* Frischmann & Ormerod, 75 Emory L.J. at 1127 (opining that "an engagement-maximizing algorithm" does not express "any opinion held by engineers at a social media company about what kinds of content a user might wish to see; any actual content sorting, after all, takes place well *after* the engineers have made their contributions to designing the relevant algorithm"). Therefore, a State's attempt to regulate them (in *Meta Platforms*, by statute; here, through this litigation) is not barred by the First Amendment. *See TikTok Nevada*, 578 P.3d at 644 ("The . . . claim that TikTok uses harmful design features does not on its face target any expressive activity or third-party content.").

Put another way, this is not a scenario where the State has targeted TikTok "in supposed pursuit of better expressive balance." *Moody*, 603 U.S. at 734 (majority opinion). It is also not a scenario where Count 10 "profoundly alters the platforms' choices about the views they will, and will not, convey." *Id.* at 737. Accordingly, because Count 10 of the amended petition adequately alleges facts that, taken as true at this stage, establish TikTok's design features do not carry an expressive message, *Moody* and the First Amendment do not require dismissal.

"A more developed record might reveal an expressive message that changes the calculus," but the First Amendment does not eliminate this claim just yet. *TikTok NC*, 2025 WL 2399525, at *10; *accord Moody*, 603 U.S. at 747 (Barrett, J., concurring)

(proposing that proper constitutional analysis applying the First Amendment to social media feeds will be fact intensive and will vary "from function to function and platform to platform"). And even if a more developed record might reveal an expressive message, summary judgment rather than a motion to dismiss is a better mechanism by which the parties could argue whether the State's requested relief satisfies the appropriate level of constitutional scrutiny. The First Amendment does not mandate dismissal of Count 10 at this stage.

C. *Federal primacy regarding foreign policy does not preempt Count 11.*

Federal government officials have in recent years "taken repeated actions to address national security concerns regarding the relationship between China and TikTok." *Garland*, 604 U.S. at 64. *Garland* summarizes some of that history, which included negotiations and discussions between TikTok and federal officials. *See id.* at 64–65. Congress eventually passed a federal statute that included a divestiture requirement. *See id.* at 65–66. TikTok contends this series of federal actions constitutes the totality of the field related to TikTok and national security, and therefore argues the federal landscape preempts any State attempt to impose liability related to concerns about national security or foreign data access.

"[A]t some point an exercise of state power that touches on foreign relations must yield to the National Government's policy," and it is the province of federal "executive authority to decide what that policy should be." *Am. Ins. Ass'n v. Garamendi*, 539 U.S. 396, 413–14 (2003). TikTok contends that, by focusing on the risk of data access by the Chinese government, Count 11 impermissibly invades the

federal government's primacy in national security and foreign affairs. The State responds that Count 11 involves an alleged *failure to disclose* risk and will not involve any determination of whether (or to what extent) TikTok in fact jeopardizes national security. Thus, the dispute is essentially whether a consumer protection claim is an exercise of state power that reaches the point of touching on foreign relations such that the claim is preempted. *See Am. Ins. Ass'n*, 539 U.S. at 413.

State laws that establish a state's "own foreign policy" or that create a "direct impact upon foreign relations" are preempted. *Zschernig v. Miller*, 389 U.S. 429, 441 (1968). But the consumer protection claim the State pleads here (and the statute upon which it is based) does not do either. Count 11 does not seek to contradict the series of executive orders and federal statutes addressing TikTok. And it does not seek to establish Iowa's own foreign policy or declare TikTok a national security risk. Rather, Count 11 accepts the federal orders, legislation, and executive determinations as establishing the federal government's foreign policy, and seeks to hold TikTok liable for other alleged misrepresentations made to Iowa consumers.

Consumer protection is a traditional area of State police power. *See, e.g.*, *AbbVie, Inc. v. Fitch*, 152 F.4th 635, 646 (5th Cir. 2025); *Durnford v. MusclePharm Corp.*, 907 F.3d 595, 601 (9th Cir. 2018); *Bank of Am., N.A. v. Riffard*, 19 N.W.3d 604, 614 (Wis. Ct. App. 2025). Federal spheres of authority do not "not cavalierly pre-empt state-law causes of action" invoking those traditional areas of State authority. *Medtronic, Inc. v. Lohr*, 518 U.S. 470, 485 (1996). And here, the consumer-protection cause of action is not even "the same subject" as the series of federal executive orders,

statutes, and executive determinations. *Rice v. Santa Fe Elevator Corp.*, 331 U.S. 218, 230 (1947) (recognizing that field preemption may occur if "the federal interest is so dominant that the federal system will be assumed to preclude enforcement of state laws on the same subject"). In Iowa, the "Consumer Fraud Act deems a variety of bad business practices unlawful." *State ex rel. Miller v. Cutty's Des Moines Camping Club, Inc.*, 694 N.W.2d 518, 524 (Iowa 2005). Claims targeting "bad business practices" do not impinge upon or directly impact foreign relations.

Preemption might be appropriate if, as in Montana, the State expressly brought Count 11 "to stop a perceived national security threat." *Alario v. Knudsen*, 704 F. Supp. 3d 1061, 1083 (D. Mont. 2023). But at the motion to dismiss stage, the State's factual allegations of misrepresentations materially differentiate this case from *Alario* and lead to the conclusion that Count 11 is not preempted by the federal government's primacy in national security matters.

D. *Allowing the State to pursue Count 11 does not violate the First Amendment.*

Count 11 surrounds an alleged failure to disclose the risk of user data being accessed or intercepted. The specific risk identified is data access by the Chinese government. But the claim would be similar even if it did not identify any specific foreign country. Rather, the State asserts, the conduct for which it seeks to hold TikTok liable involves terms of service and an alleged failure to warn. TikTok responds that allowing a consumer protection claim to proceed would violate the First Amendment because TikTok is engaged in protected speech when it is describing or even touting its product.

This argument does not prevail. A First Amendment defense to a consumer protection claim "is a non-starter" when the petition "plausibly alleges" that the defendant's "commercial speech would mislead reasonable consumers." *Earth Island Inst. v. Coca-Cola Co.*, 321 A.3d 654, 672 (D.C. 2024). In *Earth Island*, the court concluded the plaintiff's allegation that the defendant made false statements about sustainability to mislead consumers "survive[d] a motion dismiss." *Id.* at 659. The same rationale applies here. *See Meta Platforms, Inc. v. District of Columbia*, 301 A.3d 740, 758 (D.C. 2023) (concluding a consumer protection action involving a social media company's public statements, when alleged to be "deceptive and in violation of" the applicable consumer protection act, "would pose no constitutional problem at all," because such public statements are commercial speech subject to regulation). Therefore, the First Amendment does not mandate dismissal of Count 11 at this stage on the ground that it would invade TikTok's protected commercial speech.

Nor does the First Amendment mandate dismissal on the ground that at least some of TikTok's alleged misstatements were protected petitioning activity. Construing the petition in the light most favorable to the State, Count 11 alleges TikTok made misleading or deceptive statements, and the First Amendment doctrine on which TikTok relies "does not protect deliberately false or misleading statements." *United States v. Philip Morris USA Inc.*, 566 F.3d 1095, 1123 (D.C. Cir. 2009).

E. *Prospective injunctive relief is not available on Count 11.*

An injunction "looks to the future rather than to the past and is not used to punish wrongful acts already committed." *Jenkins v. Pedersen*, 212 N.W.2d 415, 420

(Iowa 1973). TikTok contends that injunctive relief is not available for Count 11 because the claim is expressly not brought against TikTok USDS Joint Venture LLC, which now controls all of TikTok's operations in the United States.

On this issue, TikTok is correct. "It is quite fundamental that rights already lost and wrongs already committed are not subject to injunctive relief. . . . An injunction is not corrective of past injuries." *Universal Loan Corp. v. Jacobson*, 237 N.W. 436, 437 (Iowa 1931); *see also Jenkins*, 212 N.W.2d at 420 (reversing an injunction when the district court granting it "looked to the proof of damages already inflicted, rather than at the restraining of actual or threatened injury"). Count 11 alleges TikTok is liable for past misrepresentations or deceptive statements. But even accepting the petition's facts as true, there is no indication that any individual Defendant other than TikTok USDS Joint Venture LLC might make further statements an injunction would prevent, because those Defendants do not control TikTok's United States operations any longer.

Thus, injunctive relief is not available on Count 11. However, the other forms of relief the State seeks with respect to Count 11 might be. And of course, injunctive relief may be available for other counts, because TikTok only asserts injunctive relief is unavailable as to Count 11.

V. CONCLUSION

The grounds TikTok asserts do not mandate outright dismissal of Count 10 or Count 11 at this stage. However, the Court concludes injunctive relief is not available on Count 11.

IT IS THEREFORE ORDERED that TikTok's motion to dismiss Counts 10 and 11 is GRANTED IN PART and DENIED IN PART. The motion is GRANTED to the extent it asserts injunctive relief is unavailable on Count 11. The motion is DENIED in all other respects.

IT IS FURTHER ORDERED that TikTok must file an answer to the amended petition within 10 days of this order, in accordance with Iowa Rule of Civil Procedure 1.441(3) and *McElroy v. State*, 637 N.W.2d 488, 493 (Iowa 2001).

IT IS SO ORDERED.

State of Iowa Courts

Case Number	**Case Title**
EQCE089810	STATE OF IOWA EX REL AG BRENNA BIRD VS TIKTOK INC ET AL
Type:	OTHER ORDER

So Ordered

David Ranscht, District Court Judge,
Fifth Judicial District of Iowa

Electronically signed on 2026-10-31 21:29:39