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Order of the President of the General Court in case T-1077/23 R | Bytedance v Commission

Digital Markets Act: the application by Bytedance (TikTok) seeking suspension of the Commission decision designating it as a gatekeeper is dismissed

Bytedance has failed to demonstrate the urgency required for an interim order in order to avoid serious and irreparable damage

Bytedance Ltd is a non-operating holding company established in China in 2012 which, through local subsidiaries, provides **the entertainment platform TikTok**.

By decision of 5 September 2023, the Commission designated Bytedance as a gatekeeper under the Digital Markets Act ¹.

In November 2023, Bytedance brought an action for annulment of that decision. By separate document, Bytedance lodged an application for interim measures seeking suspension of that decision. **By today's order, the President of the General Court dismisses Bytedance's application for interim measures.**

According to the President of the General Court, Bytedance has not shown that it is necessary to suspend the contested decision until the proceedings on the substance of the case are closed in order to avoid serious and irreparable harm to Bytedance.

Bytedance argued, *inter alia*, that the immediate implementation of the contested decision risks causing the disclosure of highly strategic information concerning TikTok's user profiling practices, which is not otherwise in the public domain. That disclosure would enable TikTok's competitors and other third parties to obtain insight into TikTok's business strategies in a way that would significantly harm its business. **According to the President of the General Court, Bytedance has not shown that there is a real risk of disclosure of confidential information or that such a risk would give rise to serious and irreparable harm.**

NOTE: The General Court will deliver final judgment on the substance of this case at a later date. An order as to interim measures is without prejudice to the outcome of the main proceedings. An appeal, limited to points of law only, may be brought before the Vice-President of the Court of Justice against the decision of the President of the General Court within two months and ten days of notification of the decision.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to EU law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

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The [full text](#) of the order is published on the CURIA website.

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¹ [Regulation \(EU\) 2022/1925](#) of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector.