IN THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

TIKTOK INC. and BYTEDANCE LTD.	
V.	
MERRICK B. GARLAND, in his official capacity as Attorney General of the United States,	No. 24-1113 (Lead)
Respondent.	
BRIAN FIREBAUGH, CHLOE JOY SEXTON, TALIA CADET, TIMOTHY MARTIN, KIERA SPANN, PAUL TRAN, CHRISTOPHER TOWNSEND, and STEVEN KING, <i>Petitioners</i> , v. MERRICK B. GARLAND, in his official capacity as Attorney General of the United States, <i>Respondent</i> .	No. 24-1130

BASED POLITICS INC.,	
Petitioner,	
v. MERRICK B. GARLAND, in his official capacity as Attorney General of the United States,	No. 24-1183
Respondent.	

ON PETITION FOR REVIEW OF THE PROTECTING AMERICANS FROM FOREIGN ADVERSARY CONTROLLED APPLICATIONS ACT (H.R. 815)

REPLY IN SUPPORT OF EMERGENCY MOTION FOR INJUNCTION PENDING SUPREME COURT REVIEW

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The government does not dispute that even the temporary loss of TikTok will irreparably harm Petitioners—disrupting the forum they rely on for community, expression, information, entertainment, and in some instances, their livelihood. The government also does not dispute that this case presents unprecedented questions of significant constitutional magnitude, or that our country has a rich and long history and tradition of permitting the free exchange of expression unfettered by legal restrictions. Nor does the government give any reason to suggest a brief delay of the Act's potential enforcement would cause it harm.

Instead, the government asks this Court to deny Petitioners' Motion primarily on the basis that the Supreme Court should decide for itself whether to delay implementation of the Act pending further review. This Court, however, undisputedly has the authority to grant the relief Petitioners seek. *See, e.g., Population Inst. v. McPherson*, 797 F.2d 1062, 1073 (D.C. Cir. 1986) (staying enforcement of agency decision to withhold funding from plaintiff and redistribute funds to others); *Satiacum v. Laird*, 475 F.2d 320, 321 (D.C. Cir. 1972) (enjoining Arlington Memorial Cemetery officers from restraining plaintiff from holding services there pending appeal). And it is a standard practice of the federal courts of appeals to issue orders maintaining the status quo on the ground pending Supreme Court review. *Cf.* Fed. R. App. P. 41(d) (providing for staying a mandate pending Supreme Court review). In fact, the Court often relies on lower courts to do so, so it can focus its energies instead on petitions for certiorari themselves and deciding cases on the merits.

In the alternative, the government asks this Court to condition an injunction pending Supreme Court review on Petitioners' filing their petition for a writ of certiorari within seven days. Gov't Resp. at 22. Such a deadline would be unnecessarily onerous. But Petitioners are prepared to move expeditiously, filing a petition for certiorari within thirty days.

For these reasons and the reasons in their Motion, Petitioners respectfully ask the Court to enjoin enforcement of the Act until the Supreme Court has had the opportunity to decide whether to accept review, and if so, decide the merits of this case.

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Dated: December 12, 2024

Respectfully submitted,

/s/ Ambika Kumar

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CERTIFICATE OF COMPLIANCE

1. This document complies with the type-volume limit of D.C. Circuit Rule 27(c), because it contains 359 words, excluding the parts of the document exempted by Fed. R. App. 32(f).

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Dated: December 12, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing to be electronically filed with the United States Court of Appeals for the District of Columbia Circuit by using the appellate CM/ECF system on December 12, 2024.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

DATED: December 12, 2024

/s/ Ambika Kumar

Ambika Kumar *Counsel for Creator Petitioners*