



TikTok, You Don't \$top (Making Money)

How Influencers Can Avoid Losing Money From the Looming TikTok Ban

TikTok engages more than 1 billion monthly users, and Americans are 150 million of them. Most of us just use the platform for a mindless thumb exercise scrolling through endless videos with an angle (and algorithm) for everyone. Unless the U.S. Supreme Court blocks the Tik Tok "ban," it will take effect on January 19 (or a later date if extended) and thousands of well-paid influencers stand to lose a significant revenue stream. Recent data reflects that influencers make as much as \$250k *per post*. The good news? Influencers can take steps ahead of loss.

Before we get into the money talk, how about a brief Q&A on how the TikTok ban came to exist and what we know so far.

First, how did we get here?

In 2024, President Biden signed legislation requiring TikTok owner, ByteDance, to sell TikTok to a U.S. company by January 19, 2025. According to reports, ByteDance shares personal data of users with the Chinese government. This access has led to concerns about China misusing that information to the detriment of the U.S. Therefore, the U.S. legislation deemed China's access to and sharing of Americans' data to be a national cybersecurity risk requiring divestment by the Chinese parent company.

What does it mean for TikTok to be “banned” in the U.S.?

TikTok will not be available in any app store for download nor will it be accessible through a web browser like Chrome or Safari.

Will I be able to access TikTok if I already downloaded it before it is unavailable in the app store?

Yes.

Then what is the ban’s effect on present TikTok users?

Users apparently will find the app unusable because required updates are only available through the app store.

The Social Media Influencer

By now, we have all heard and marveled at the latest American millionaire. The social media influencer. This is the creator/influencer who offered money in advance to promote a brand by submitting a deliverable or campaign. Both available to the masses but mysterious on its success rate, the influencer business model has taken the world by storm (and swipe). But now, the TikTok arm of that business model hangs in the balance of TikTok’s looming extinction.

Brands which pay influencers for content enter into contracts like any other deal – both the brand and the influencer have to perform. The brand wants a certain type of deliverable (video, series of pictures, reel, or a “dark post”) and agrees to pay the influencer for that deliverable. But what happens when that deliverable, specific to TikTok, is no longer possible for its purpose?

Two careful solutions come to mind. And every brand and influencer (and their talent manager) should be prepared for them.

Let the Contract Protect You. Every contract should have a “force majeure” clause. This contract inclusion covers situations where contract performance is made impossible due to an “act of God.” The term “act of God” encompasses weather, war, laws, or something similar outside of the parties’ control. Every influencer and brand

should pay close attention to the contracts they sign to make sure this clause is included. This protects influencers from violating a contract for non-performance due to impossibility if the payment is conditioned upon the deliverable being posted or used for a certain purpose.

Clarify When Your Payment is Due. Key contract language can be buried in fine print or confusing, circular phrasing. Lawyers #amirite? One thing to be sure of is the terms of which an influencer gets paid. Influencers can avoid the possibility of not getting paid for their deliverable with one simple phrase. “Company shall remit payment to influencer within [number of days] of influencer’s submission of the [deliverable/campaign] to [Company].” A simple sentence terminates the ambiguity of “if I will get paid” to “when I will get paid” by conditioning payment only on an influencer’s submission of the promised work.

I leave you with three takeaways to keep the time running on your social media success. First, the worst a brand can do is say no when you try and re-negotiate a contract that does not have the magic language now. Second, for future contracts, make sure your contract does contain the magic language. And – third – broaden your platform pitch! Diversifying the platforms for which the campaign will be post will keep you paid and will not bind your income to a pending impossibility.

As TikTok’s U.S. future may be a thing of the past, social media influencers’ power is here to stay. Whether on TikTok or another platform, influencers are the newest, most attractive, and nuanced business people of our time. For now, the question of an influencers’ success is “where” they will make it not “if.”

This blog was drafted by [Natalie Soas Washington](#), an attorney in the Spencer Fane Dallas office. For more information, visit www.spencerfane.com.

Click [here](#) to subscribe to Spencer Fane communications to ensure you receive timely updates like this directly in your inbox.