POLICY BRIEFS SERIES

Risk Mitigation and Creating Social Impact: Chinese Technology Companies in the United States

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About the Author

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Contents

Executive Summary

Chinese technology companies have become a topic of interest to not only the business and investor communities but also increasingly the national security and intelligence communities. Their scale and level of innovation present new possibilities and new competition as well as shape global trends. Yet the relationship of such companies to the Chinese government is often opaque. As a result, their growing integration into the global telecommunications system also casts doubt on their intentions and legitimacy.

Early generation Chinese technology companies such as Huawei, ZTE, and Lenovo have been expanding their global reach relatively quietly over the last two decades. Most of these companies have heeded the spirit of the Chinese aphorism that "a tall tree catches the wind" and have sought to maintain a low public profile. Yet this strategy comes with costs. Even the more recent Chinese internet conglomerates, when they go global, rarely implement a comprehensive stakeholder engagement strategy at the point of market entry. While the costs of such a misstep in strategy are not always clear at the outset, they are revealed and exacerbated during periods of heightened geopolitical tensions. Some companies are clear threats to national security, while others find themselves the victim of their own poorly informed international nonmarket strategy. Media, government, and public perceptions of Chinese technology companies are often undermined by the corporate leadership's own inability to explain early on who they are, what their technologies do, and how they work. There is little public trust in such companies because there is often a pronounced lack of clear corporate information and transparency. Such distrust in Chinese technology companies is further compounded by a general lack of understanding business-government relations in China as well as the role of the technology sector in society.

This paper reviews key US policy developments under the Trump administration, both broadly toward China and more narrowly relating to trade and technology, and examines the business strategy of four Chinese technology companies operating in the United States. It outlines the benefits of a corporate risk mitigation approach that incorporates social impact creation as an integral part of business and nonmarket strategy for Chinese technology companies, in the United States, and elsewhere. However, this paper also argues that corporate actions can only go so far. Because technology necessarily involves concerns of national security, the role of government—and government cooperation—is essential. It is only through a combination of more locally engaged corporate actions and internationally agreed upon sectoral rules and standard settings that we will be better able to improve transparency and trust-building across borders.

I. Introduction

In an increasingly complex political, economic, and social environment, businesses need a comprehensive strategy to mitigate risks and demonstrate their value. For multinational companies, navigating the geopolitical and varied regulatory environment has become increasingly challenging over the last few years. Maximizing profitability may still be a priority for business shareholders, but generating long-term value for everyone—shareholders, employees, and communities—is increasingly seen as a legitimate and important value. In a Business Roundtable CEO statement issued in August 2019, corporations' purpose has been redefined to serve "an economy that serves all Americans."[1]

As a tool to build public trust and mitigate risks, businesses create corporate foundations to give back to society and communities through philanthropy. Notable examples include the Walmart Foundation, ExxonMobil Foundation, Goldman Sachs Foundation, and Citi Foundation. A corporate foundation helps its parent business enjoy tax benefits; its independence from business also helps balance business priorities and society/environment needs. Corporate philanthropic giving is also used strategically to establish goodwill, introduce business to new markets, and build brands and good public relations.[2]

As the thinking of businesses' relationships with society and the environment evolves, corporate foundations are no longer the only vehicle for businesses to engage with society. In addition to philanthropic giving, businesses are also involved in policy advocacy and other lobbying efforts to change the overall local business environment. Some companies create their political action committees to pool campaign contributions, launch ballot initiatives, or lobby, while some create nonprofit organizations to support their particular social mission. Some companies also support groups to advance specific issues or engage directly with lobbyists to advocate for particular legislation or policies. In a 2018 study by the National Bureau of Economic Research of corporate foundations affiliated with Fortune 500 and S&P corporations, corporate giving directly correlated to growing political influence.[3]

The increasing number of tools available to businesses to ensure their friendly and healthy relationship with society can be attributed to increasingly complex business operations and their impact on society, especially in technology services in more recent years. While technology services are transforming how people live, work, and interact with each other, many unintended consequences have disrupted norms and created distrust in society. Governments now must grapple with setting up frameworks to stem such disruptions while continuing to foster innovations. Moreover, minimizing negative influence and creating social impact through core technology services, in addition to philanthropic giving, has become a major challenge for corporate governance and a task for board members and management. A recent example includes Apple's Human Rights Policy, published in August 2020, that commits to freedom of information and expression after criticism of its censorship in China.[4] The challenge is even greater for Chinese technology companies expanding globally.

This paper explores how Chinese technology companies in the United States create social impact and build public trust as a business operation and risk mitigation strategy in a politically challenging environment. It discusses how the perceived national security implications and the competition of leading technologies between the two countries underpin the Trump administration's policies toward Chinese technology companies, and it provides an overview of the deteriorating US-China relationship and the growing anti-China sentiment in the US during the Obama and Trump administrations. This paper will examine four Chinese technology companies' (**Huawei, Grindr, TikTok, and VIPKid**) operations in the US under such extreme distrust, competition, and political uncertainties and their chances of success.

This paper argues that, especially for foreign firms, attention to social impact and building public trust must be an integral part of business strategy and operations—from the inception of the business and at the point of entry in a new market, not as an afterthought. Investment and effort to establish a foreign corporation's standing in the community and reputation as a good citizen is similar to the soft power approaches that governments undertake. The objective of these approaches is to accrue good will and public trust. However, just as with national soft power, there are limits if perceived national security threats arise. In the case of the four Chinese technology companies, **Huawei** probably could not have avoided its issues regardless of resources devoted to its soft power; **Grindr** probably could have survived without the data breach; **TikTok**'s case may have been overtaken by the US-China geopolitical storm, and its fate remains uncertain; and **VIPKid** is less exposed as the previous three companies.

In addition, this paper was written when a new administration was underway in the US, and there is a unique opportunity to discuss global cooperation on data and internet governance. Thus, it further argues that governments must urgently provide a globally consistent framework of data collection, protection, storage, localization, and sharing for companies to operate within. A shared and agreed upon global framework, taking national security into consideration without discriminatory government policies, will ensure healthy innovation and competition among businesses, inspiring more responsible corporate citizens. This paper also hopes to enrich the policy discussion on how to engage China in the context of its technological rise.

II. The Current State of US-China Relations

US-China relations recently reached its lowest point since the two countries resumed diplomatic relations in 1979. For over three decades, integrating China into the global system—economic integration in particular—has been the predominant view in Washington, DC. Supported by the Clinton administration, China joined the World Trade Organization (WHO) in 2000 and marked its official participation in the world economic system. Over most of the last two decades, US policy toward China generally prioritized engagement, especially in the US State and Commerce Departments. There was an underlying desire to integrate China further into the global community, believing the nation would gradually follow international norms. There was also a consensus in the business community to influence and access the world's most populous country and potentially the largest market. Sometimes, business priorities and the need to have China help with North Korea or other US foreign policy interests superseded ongoing concerns over China's poor human rights records and uncertain rule of law.[5]

The seemingly abrupt pivot of US policy toward China in the Trump administration was not a surprise to the business community that had been complaining about market access and fairness over the last few years. Toward the end of the Obama administration, the American business community in China had grown increasingly impatient with long-standing barriers to doing business in China, ranging from opaque rules and regulatory practices to the overall lack of the rule of law. During a private meeting with former deputy secretary of state Tony Blinken, days before the presidential election in October 2016 convened by the US Embassy in Beijing, a small group of US business representatives as well as former US ambassador to China, Max Baucus, reiterated that a tougher position on China to press for better market access is a must in the new administration.

In the early days of the Trump administration, the world witnessed competing views between the "globalists"—led by Trump's first national economic advisor and former Goldman Sachs president Gary Cohn and Treasury Secretary Steven Mnuchin, also a former Goldman Sachs partner—and "economic nationalists"—led by Trump's former senior advisor Steve Bannon, Trade Advisor Peter Navarro, and US Trade Representative Robert Lighthizer. The former, globalists, advocated for continuing a pro-trade and open market approach, while the latter, nationalists, campaigned for a "reciprocity" and "trade deficit reduction" approach to China. As Trump started imposing trade tariffs and barriers in 2018, it became clear that a US-China trade war was underway. While the trade war focuses on better access to the Chinese market and trade deficit reduction, the administration also leverages and expands existing mechanisms such as the Committee on Foreign Investment in the United States (CFIUS) and the Department of Commerce's Entity List to scrutinize foreign investment into the US and to export license control that may concern US national security.

Vice President Pence's speeches on China in October of 2018 and 2019 signaled the US's increasing distrust in Beijing. Secretary of State Pompeo's speech at the National Governors Association in February 2020 urged 50 governors to adopt a "cautious mindset" about the competition with China.[6] Moreover, in the least likely scenario where education is politicized, the heightened scrutiny of Chinese donations to universities, suspicion of Chinese researchers for alleged theft from US labs and transferring research secrets to China, and alleged espionage of the Confucius Institutes on campuses all led to formulating the US government's comprehensive "decoupling" policy toward China.

Perhaps what came most unexpected more recently is the global pandemic COVID-19 that put the world under siege. A novel virus that was first detected in a Chinese city, Wuhan, spread throughout the world and caused hundreds of thousands of deaths, including more than 547,000 in the US as of late March 2021.[7] Both the US and China used the opportunity to blame each other for the virus's origin, alleged early cover-up, and delayed response. They even took the feud to the WHO, where global collaboration is the default.

On other foreign policy fronts such as the South China Sea, Taiwan, Hong Kong, and Xinjiang, tensions have only further escalated in recent months. The White House issued the "United States Strategic Approach to the People's Republic of China (PRC)" on May 20, 2020, which defines China as a "competitor" and specifies three challenges posed to the US: economic, national security, and values. While the strategy does not discourage engagement between the people, it does ask the US to "rethink the policies of the past two decades," which assumed engagement and inclusion would turn rivals into benign actors and trustworthy partners.[8]

While the White House has not used the term "Cold War," China's Foreign Minister Wang Yi used "the new Cold War" to describe current US-China relations at a press conference on May 24, 2020. Suffice to say, the advent of a new rivalry between the US-led western bloc and the yet to be confirmed China-led bloc will likely split the world into blocs having to side with either power in certain areas, especially in tech services such as artificial intelligence (AI) systems, defense interoperable systems, information and communications technology, and 5G.

III. Chinese Technology Companies in the United States

US Regulatory and Policy Environment

The rapidly deteriorating US-China relationship is accompanied by concrete measures that aim to rectify unfair business practices based on the US principle of "reciprocity." The Foreign Investment Risk Review Modernization Act (FIRRMA) of 2018 expands CFIUS authority to address national security concerns over exploiting investment structures traditionally falling outside of CFIUS jurisdiction. In the regulations issued by CFIUS in January 2020, critical technology and sensitive personal data collection were added and believed to target Chinese technology business transactions. The technology sector is of particular concern to many in the national security community due to competition from Chinese technology companies to lead in areas such as AI and 5G technology deployment in networks. In March 2020, the White House issued Executive Order 13859 titled "Maintaining American Leadership in Artificial Intelligence" in February 2019 and the "National Security Strategy to Secure 5G."

On June 4, 2020, the White House issued the "Memorandum on Protecting the United States from Investors from Significant Risks from Chinese Companies," which asks financial regulators to submit a report in 60 days with recommendations for action to the executive, including the Securities and Exchange Commission (SEC) and the Public Company Accounting Oversight Board (PCAOB). This policy move came as a few Chinese companies listed in the US stock exchanges committed accounting fraud, leading, among other things, to NASDAQ's request to delist Luckin Coffee.[9] In addition, a few Chinese technology giants have secondary listings in Hong Kong, including Alibaba, NetEase, and JD.com.[10] Ant Financial also filed a dual IPO in Shanghai and Hong Kong in October 2020. The day after the IPO price per share was set, Jack Ma, Alibaba's founder and Ant Financial's largest shareholder, remarked during a speech that "it would not have been fathomable five or even three years ago to file the largest IPO ever in the history [in China] not in New York."[11] Nevertheless, Chinese regulators suspended these dual listings in early November.[12]

As a series of US policies that aim to "decouple" US and Chinese technologies in the name of national security, Secretary of State Mike Pompeo further announced on August 5, 2020, the Clean Network program that consolidates and expands measures to protect American citizen privacy and data, to ensure information security, and to prevent human rights abuses aided by technologies.[13] The US is also building an international Clean Network through which countries commit to further separate Chinese technologies from their information technology systems.

As one of the Trump administration's last moves to prevent US investments in Chinese businesses with alleged ties to the People's Liberation Army (PLA), the White House issued the executive order titled "Addressing the Threats from Securities Investments that Finance Communist Chinese Military Companies" on November 12, 2020.[14] It is estimated that about 30 Chinese companies will be affected, yet its impact may be limited.[15]

Below are a few high-profile examples of hurdles that Chinese technology companies have encountered in the US due to political and regulatory concerns and their risk mitigation strategy, including their social impact and corporate philanthropy programs.

Huawei

In the case of Huawei, China's leading technology company, its trouble with the US government began many years ago when intellectual property thefts and its role with the Chinese military prompted a US government investigation into the company. Subsequent accusations of Huawei working for the Chinese government and trade thefts ensued in other countries. In the US, the Bush and Obama administrations used CFIUS to block Huawei from buying 3Com and 3Leaf, while in the Trump administration, the Department of Defense in 2018 banned Huawei technology on military bases. Two years later, the Department of Commerce put Huawei on its Entity List so that a special licensing permit is required for US companies doing business with Huawei. It also used its diplomatic prowess to urge allies not to use Huawei in their telecom network. Many governments followed suit, with the UK government initially resisting the Huawei cut-off but then changing its mind after the perception of China turned much more negative due to COVID-19. The challenge is that Huawei's technology is embedded in much of the current 5G network construction and cutting it off is not a simple task. Huawei's strategic importance in the telecom network includes providing equipment to all major telecom companies worldwide, and its phones use chips supplied by US chipmakers. Furthermore, there are no obvious viable alternatives when factoring in pricing, technology advantages, and Huawei's ability for speedy rollout.

Throughout these years, Huawei has denied its relationship with the Chinese military vehemently, even though its founder Ren Zhengfei came from the PLA. The company also claims the US government's persecution is politically motivated. While Huawei is unlikely to regain its business presence in the US and with its close allies (the UK, parts of Europe, Australia, India, and Japan), it continues to debunk the accusations of its connection to the Chinese military and government. To rebuild public trust, it also continues to invest in public relations, including speaking out in forums and donating generously during COVID-19.

Huawei has a long tradition of corporate giving and has been publishing an annual sustainability report since 2008 detailing its strategy of incorporating environmental protection, health, and digital inclusion as its overall development strategy. However, these efforts, especially early on, were less integrated into the overall business strategy and operations. A quick online review of Huawei and its corporate social responsibility in the US found sporadic donations to support STEM (science, technology, engineering, and mathematics) education, museums, hospitals, food banks, or other national health and education NGOs.[16] Even though Huawei set up its first office in the US in 2001, it was not until 2009 that it officially made its foray into the US market when it hired an American as a CTO. By then, there had been many intellectual property and other legal issues. Still, according to news reports, Huawei management often ignored advice and undermined recommendations from its US public and government relations department. The lack of interest in investing in stakeholder engagement in the US market over the years results in very little understanding of Huawei's business from the general public, other than its core business partners, which are limited to a few large technology companies.[17]

The story of Huawei compromising the national security network grew over many years. Huawei did not take the time to build public trust or undertake social impact programs to help the US understand the company's business in a more positive light and ameliorate suspicion. It was not until when the Trump administration issued measures to expunge Huawei from the US telecom system that it started investing in rebuilding public trust.[18] Nevertheless, these efforts may just be too late.

Grindr and Kunlun

Beijing Kunlun Tech, a Chinese technology company, purchased the popular US application Grindr in 2016 but was informed by the CFIUS in 2019 that it needed to relinquish its ownership due to national security concerns over its user privacy and data protection.[19] As one of the world's largest LGBTQ dating sites, most users are gay and bisexual men. Grindr also voluntarily collects personal health data, such as HIV information, and in 2018 the application was found to have shared its 3.6 million daily users' HIV status with two other companies.[20] Even though Grindr immediately announced the change of its user data sharing practice, CFIUS is concerned about blackmail against US citizens, potentially including US civil service and military personnel. CFIUS required that Kunlun sell Grindr by June 30, 2020, and the sale was approved by CFIUS as announced by Grindr at the end of May 2020.[21]

Grindr's data breach came at a time when the news broke that Facebook gave access, without users' knowledge, to Cambridge Analytica, a political data firm, enabling the company to attempt to influence 50 million users during the 2016 US presidential campaign.[22] The American public and US Congress became quite concerned about American privacy and data collected and sold by social media companies without consent.

With its unique user community, "Grindr for Equality" was launched in 2012 as the company's mission to create a world that is safe, healthy, inclusive, and equal for the LGBTQ community. "Grindr for Equality" as an initiative also supports advocacy groups and the human rights of the LGBTQ community, and the app disseminates health and sexual information worldwide. Forbes praised Grindr as a "model for corporate social responsibility." Therefore when Grindr breached user data and privacy in 2018, it caused an outcry and prompted congressional inquiries by two US senators versed in technology and data privacy issues.[23] A former management member involved in the sale remarked that after CFIUS's order of sale, there was an effort to do more "Grindr for Equality" to market the company's asset to buyers, but there was insufficient time to act on this before the sale.

TikTok and Bytedance

TikTok is a video-sharing social media platform owned by its parent media company Bytedance, one of the largest Chinese technology companies. Bytedance created two video-sharing products—Douyin for the Chinese market and TikTok for the international market. In 2018, after TikTok merged with musical.ly, another Chinese video-sharing company that was already popular and had an office in the US, it became the most downloadable application in the US.

Given its popularity among American teenagers and as the first Chinese application that has ever achieved such popularity, it drew US congressional and executive branch attention to user data protection, personal privacy, online child privacy, and censorship issues. While Washington, DC has issues with TikTok, its business continues to proliferate. To address the various issues involving data storage and the separation between TikTok and its parent company, Bytedance, TikTok has expanded its lobbying presence, including retaining more DC government relations firms and growing its DC-based policy team. The company's response to Washington's accusation that Beijing has access to its data has consistently been that its data are stored in Singapore and the US and the authorities in Beijing have never asked for access.[24] In addition to national security concerns, US Senators Josh Hawley and Marsha Blackburn are also worried about young Americans spending too much time on the application. With growing political pressure, TikTok also recently created TikTok for Good, the corporate social responsibility arm of its US business, to revamp its reputation among political, policy, and other social stakeholders. Most notably, during COVID-19, TikTok announced its commitment of $250 million to support workers, educators, and local communities.[25]

The government of India announced its ban on TikTok and a score of other Chinese apps on June 29, 2020, citing unauthorized data transmission to servers outside India.[26] On July 7, 2020, President Trump said he was "considering" banning TikTok following Secretary of State Mike Pompeo's response to a Fox News interview on July 6 that the US is "looking at" banning TikTok over security concerns.[27] Amidst threats from the Trump administration, TikTok announced hiring a high-profile US CEO, Kevin Mayer, a senior Disney executive, and its plan to hire 10,000 employees based in the US to demonstrate TikTok's commitment to stay in the US market for the long haul. Nevertheless, Mayer resigned after only three months as the complications described below unfolded.

Notwithstanding the TikTok initiatives, the White House issued an executive order on August 6, 2020, prohibiting business transactions with Bytedance and its subsidiaries, including TikTok, within 45 days.[28] The White House issued another executive order on August 14 ordering Bytedance to divest its operation in the US, namely TikTok US.[29] Since the orders and the ban by the Department of Commerce, there have been court orders granting TikTok injunctive relief from which the US government has appealed.[30]

In several private conversations, current Bytedance and TikTok employees admitted that much of their social impact, public relations, and public policy work was too late to have a positive influence despite having grown their policy staff from one to a dozen and hiring top-dollar lobbyists and law firms over just a few months. They reckoned that the business grew so fast that they could not adequately manage the growth with proper support and timely risk mitigation. One employee commented that earlier advice to Beijing management to staff key US functions and engage policymakers was ignored. Beijing's preference was to stay low-key and prohibit the staff from speaking to relevant stakeholders. When TikTok's business exploded in the US and experienced serious run-ins with Washington, DC officials from both parties, it was too late for the various initiatives to secure reputational improvements and regain trust. As of mid-February 2021, the Biden administration paused the ban of TikTok, citing it is "comprehensively evaluating the risks to US data including from TikTok."[31] No further actions have been announced by late March 2021.

Congressional Initiatives

Since the bilateral relationship's normalization in 1979, the US Congress historically holds a harder stance on China than the administration. As the president is the primary foreign policy decision-maker, Congress acts more like a brake and obstacle to the administration's attempt to engage with China, especially during China's market liberalization in the 1990s and the 2000s. For example, the US Congress used sanctions to limit US foreign aid to China after the 1989 Tiananmen Square massacre. To ensure China's economic development does not bolster its authoritarian regime's human rights abuses or hamper its rule of law development, Congress also established two congressional commissions to monitor China's rule of law and human rights development after the Clinton administration's decision to normalize trade with China and to help China become a member in the WHO in 2001. Losing American jobs to China because of trade has also been a recurring theme during congressional and presidential elections, especially in rust belt states where job losses are most pronounced. Current congressional criticism of China is bipartisan—it coalesces the China hawks from House Speaker Nancy Pelosi and Senate Minority Leader Chuck Schumer to the conservatives such as senators Ted Cruz, Tom Cotton, and Marco Rubio. Trump's harder line on China also received "widespread support" from Congress.[32]

On December 18, 2020, President Trump signed into the law the **Holding Foreign Companies Accountable Act (HFCA)**.[33] This law requires Chinese companies to submit to audits by firms subject to the PCAOB. Failing to do so for three years in a row would result in delisting from any US securities exchanges. It also requires public companies to disclose whether they are owned or controlled by a foreign government. This law came on the heels of reported accounting fraud committed by Chinese companies, Luckin Coffee, and TAL Education Groups listed on NASDAQ and NYSE. On March 24, 2021, the SEC announced that it would implement HFCA, signaling a continuation of the growing scrutiny of Chinese companies as tensions continue to grow between the two countries.[34]

Another bill that is widely seen as targeting Chinese and Russian companies is the **National Security and Personal Data Protection Act** introduced by Senator Josh Hawley in November 2019.[35] This bill would prohibit data flow to countries of concern, including China and Russia, if those governments had access to American data, thus threatening US national security. This bill has not advanced further but was the first one to limit user data flow to China.

IV. VIPKid's Risk Mitigation and Social Impact Strategy

VIPKid is an education technology company headquartered in Beijing with five offices in the US. The company connects 100,000 North American English tutors with 800,000 students from more than 60 countries with most based in China through its online platform, which enlists qualified English tutors who supplement their income and arrange their hours according to their needs. Every day, an estimated 200,000 classes take place online, with 35,000 classes occurring simultaneously during peak hours. The interactions through online education and the bonds it helps foster between teachers and students are at such a scale that the platform has drawn increasing scrutiny, and therefore the business must mitigate political risks while demonstrating its value add in both countries.

In the US, the company set up its headquarters in San Francisco with satellite offices in Sunnyvale, Dallas, New York City, and Washington, DC. The US operations are tasked with curriculum development, teacher acquisition, teacher community management, global business development, public relations, legal, and public policy functions. With 100,000 tutors throughout 50 states in the US and Canada teaching on VIPKid's platform, the business has a significant presence that comes with scrutiny and risks ranging from teacher sentiment, legal compliance, reputational, and political to policy and regulatory.

Early on, VIPKid's missteps can be mostly attributed to the lack of understanding of American culture. For example, punitive policies toward teachers who cannot teach last minute due to unforeseeable illness or personal emergencies led to teacher community outcries. Those issues were mitigated after the US team hired experienced staff from the education community.

The most challenging political and policy risks facing VIPKid include the following:

a. Worker Classification or Gig Business Model

Similar to other ride share and food delivery businesses such as Uber, Lyft, Grubhub, and Instacart, VIPKid's teachers are independent contractors, not employees, so the business does not have to pay for benefits or insurance. This is also a reason why the platform has grown so rapidly and has so many users. Labor groups and unions, however, consider such new "gig" businesses to be shirking their responsibilities and have advocated for classifying such gig workers as employees. The labor-led legislative movement concentrates on blue states, where the executive and both chambers of legislature are Democrats. California's Assembly Bill 5 (AB5), effective January 1, 2020, became the first state law that mandates businesses to reclassify workers if they do not pass the "ABC test"—an employment classification test presuming that workers are employees rather than independent contractors. VIPKid has more than 4,000 regular teachers from California, not a small number out of 100,000. The company also faces a class action lawsuit in California that alleges the company misclassifies teachers.

To protect its business model, VIPKid retained a lobbying firm in Sacramento to engage the lobbying of AB5 to exempt "tutors." Along with volunteer teachers who provided testimony of the importance of keeping this work arrangement, VIPKid conducted extensive outreach to the California governor's office, labor groups, and teachers unions, taking its teachers to meet and speak to key state legislators and AB5 authors' offices. On September 4, 2020, Governor Newsom signed an amended AB5, under which VIPKid teachers qualify the tutor definition—significantly reducing the legal risk of the company's gig business model in California and setting a precedent for the company to lobby for an exemption in other states considering similar legislation.[36] New Jersey and New York are the two states that immediately followed California's AB5 momentum. However, given AB5's controversy in the business community and COVID-19, neither state has been able to swiftly move forward similar legislation as of late March 2021.

Worth noting are the various safety net benefits provided to gig workers during COVID-19, allowing them to file for unemployment insurance for a limited period and potentially offering them paid sick leave. Both benefits are historically only available to employees. However, given the particular vulnerability and large number of gig workers in the US, such changes are likely to become permanent, not merely a temporary response to COVID-19. As the US experiences high unemployment rates because of COVID-19, worker protection, including for gig workers, will continue to be an important topic. As a result, VIPKid is pivoting to a more proactive approach in high-risk states where gig legislation may advance. Furthermore, in low-risk states such as Utah, VIPKid has successfully lobbied for legislation that protects its gig business model (Remote Service Marketplace Platforms Act, signed into law on March 16, 2021).[37]

b. US-China Tensions

While tensions in US-China relations have not had a direct impact on VIPKid's business, they have had a significant effect on how the business conducts its public relations and communicates with policymakers given that people-to-people connections is the core of its business model. Discussions of political issues or other topics that are deemed inappropriate or harmful to children's learning are discouraged in online classes, as stipulated in the teacher contract.

Nevertheless, there are occasions where teachers unknowingly discuss issues that China deems political and draw criticism from customers and parents. These topics related to freedom of speech highlighted in a *Wall Street Journal* article, including Tiananmen, Taiwan, Hong Kong, Tibet, Xinjiang, and more recently COVID-19 origin, are a point of US criticism and concern addressed to the company.[38] In addition, VIPKid has a Chinese learning product, Lingo Bus, that enlists Chinese teachers to teach Mandarin to children globally. While there are genuine grassroots and school interests in learning Mandarin, the controversy around the Confucius Institutes, as mentioned on page 5, casts a shadow on the company's marketing of Lingo Bus.

Overall, to avoid becoming a victim or target of the growing anti-China sentiment in the US, VIPKid has taken a low-key approach to its public profile. Its media profile uses local news outlets and emphasizes human connection stories between teachers and students.

c. Privacy and Sensitive Personal Data Storage

VIPKid's privacy policy is accessible to the public on its website. It complies with all jurisdictions' privacy requirements, including the more recent and stringent compliance requirement by the General Data Protection Regulation (GDPR) in the EU and the California Consumer Privacy Act (CCPA). VIPKid's user data collection and storage are also made transparent to the public on its website. As the company's server is in China, the *Financial Times* raised a question about the possibility of the Chinese government accessing teacher data as a national security concern, with the US government increasingly viewing sensitive personal data as a national security asset.[39] The Chinese Ministry of Education also requires that specific data be stored in China for a limited amount of time, such as one year for online class recordings. While there is currently no legal requirement for localizing user data in the US, as opposed to China's data localization requirement, should it become a policy or a compliance requirement as laid out in the Clean Network program announced by Secretary Pompeo in August, it will most likely pose a challenge for businesses operating in both Chinese and US markets. As a precautionary step, VIPKid changed its practice by storing American data in a US server and sensitive American personal information in the US server only.[40]

d. Child Online Safety

Given that VIPKid's students are mostly K-12 English learners, ensuring online safety is a top priority. Not only do all teachers undergo background checks before they are approved to teach on the platform, but there are also features during classes that allow teachers to report emergencies and class monitoring by the "firemen." The business complies with the Children's Online Privacy Protection Act (COPPA), which applies to children under 13 in the United States, and joined the Federal Trade Commission's (FTC) approved Safe Harbor Program. VIPKid also joined the Family Online Safety Institute (FOSI), a membership-based nonprofit organization that brings together businesses for family online safety policy and regulatory standards discussions and best practices sharing.

e. Racism and Other Forms of Discrimination

Racist, body-shaming, or other judgmental statements relating to appearances from Chinese parents or students to their teachers have been consistently an issue on VIPKid's platform. To address those culturally sensitive topics, the business held sessions to help teachers respond to such situations. The company also uses technology to feature outstanding teachers of color to break down misinformed ethnic stereotypes, and its teacher advocacy team responds to teachers' requests if teaching certain students is no longer desirable due to their discriminatory remarks or behavior. Bridging cultural differences through sensitive education and communication remains a high priority for VIPKid.

In light of the national Black Lives Matter movement in Jun 2020, VIPKid conducted a whole-of-business review and diversity and inclusion practice improvement, ranging from creating a corporate diversity statement, HR hiring and employee training practices, curriculum review, and marketing and advertising content to teaching diversity to students, parents, and external partnerships. The company launched a corporate website in late August 2020 dedicated to its diversity and inclusion policy.[41]

Social Impact and VIPTeach.org

In addition to lobbying, legal defense, and public relations and media management to minimize the various risks, VIPKid also created a social impact initiative and launched a US-registered 501(c)(3) nonprofit organization, VIPTeach.org, to support better access to English education for the underserved and to professional development for online educators. Seed funded and incubated by VIPKid, this nonprofit serves as a partner to VIPKid's Rural Education Project in China. It aims to bring resources to expand the program beyond its current reach—50,000 students in over 1,000 schools. The Global Online Teaching Fellowship program is modeled on Teach for America and targets future education leaders who need first-hand experience teaching online. Each novice fellow will be assigned an experienced mentor and given a stipend for professional development during the one-year, two-semester fellowship.

As an independent nonprofit for US online educators, VIPTeach.org is an important vehicle for VIPKid to demonstrate its commitment to advancing online education and building goodwill and thought leadership, and to engage education sector stakeholders in the US market. It is part of VIPKid's strategy to be as local and as American as possible early on. Through the Global Online Teaching Fellowship, 26 fellows have been selected from all over the US and will participate in professional online education opportunities. The fellows will work with local school districts to provide free online English as a second language lessons, and their stories will be featured in local media. Through this fellowship program, VIPTeach will also engage external education experts and thought leaders as speakers. Those stakeholder engagement efforts are an alternative to position VIPKid as a positive contributor to the US online education sector. VIPTeach.org's long-term goal is to raise funding in the US to be self-sufficient without dependence on VIPKid. This will also help ease VIPKid's financial burden of supporting philanthropic programs, especially its current Rural Education Project, of which payment to teachers takes up most of the budget. VIPTeach.org also plans to convene online education thought leaders for policy and program discussions on the future of online education.

During COVID-19, VIPKid has also provided monetary donations to California and New York. In California, a donation of $50,000 was a direct response to the governor's Cross-Sector Partnerships to Support Distance Learning and Bridge the Digital Divide. In New York, a donation of $50,000 supported the state fund for medical supplies and personal protection equipment. In addition to monetary donations, VIPKid also produced free online teaching videos for teachers who need skills to transition from offline to online teaching. These resources are disseminated to education or education technology officials in all 50 state governments. This outreach helps showcase VIPKid's online teaching expertise and establishes relationships with education officials who may find VIPKid a partner in future endeavors.

V. Conclusion and Policy Recommendations

Chinese businesses have been expanding globally over the last two decades. Unlike their American counterparts, Chinese businesses tend to stay low-key, are laser-focused on growing business and generating profits, and are less focused on stakeholder engagement, building public trust, or creating value beyond strict business profitability. In reviewing the four Chinese technology companies' operations in the US, risk mitigation and creating social impact were still mostly an afterthought. Huawei has the longest history in the US and did not invest in shaping the narrative even though the issues arose nearly simultaneously with its entry in the US market almost two decades ago. Grindr's personal data breach came at a time when privacy and data became a national security concern, especially over the possibility of the Chinese government accessing American data. Bytedance/TikTok grew too fast and did not prioritize Washington, DC or other stakeholder engagement while its business exploded in the US market. In reviewing their business practices, VIPKid has a better "trust-building" strategy by creating social impact and risk mitigation not long after entering the US market.

Several early management decisions may have contributed to VIPKid's success. First, because the company's business relies on many teachers from North America, its management in Beijing has always been deferential to the US team in making decisions regarding the US market. Second, VIPKid is an online education company, and the core business is about creating education impact; it is therefore relatively easy to articulate its social impact and value add to American society, especially its creation of supplemental income for mostly stay-at-home mothers. Third, as the company formally established its US business presence, key functions of public policy, social impact, legal, and public relations were immediately staffed to ensure proper business operations. Moreover, all staff in those functions are bicultural and have experience in both Chinese and American markets. Fourth, as the younger company, it is careful not to repeat missteps other companies have made and instead follows proven footsteps.

The key questions remain: Will taking those actions discussed above guarantee future success for Chinese technology companies under the Biden administration? Furthermore, if distrust in those companies lingers due to the uneasy relationship between the US and China, are there better ways to build trust so that the US does not lose valuable investments and technological contributions from those companies while ensuring economic and national security?

The year 2020 witnessed the Trump administration unleashing hardened policies toward China. He made China an important theme of his campaign and attacked former vice president and Democratic Party candidate Joe Biden for not being tough enough on China. Biden's campaign also countered Trump's accusation by saying that Trump was ineffective in containing China's influence and curtailing China's lack of transparency, rule of law, and human rights because the Trump administration failed in bringing together allies against China. Until the end of the campaign, both sides maintained a tough position on policy toward the country.

In an in-depth interview with the China Wire dated May 24, 2020, Trump's former campaign advisor and White House senior counsel Steve Bannon articulated why, in his view, China and trade were the most important issues during the 2016 and 2020 presidential elections.[42] Bannon commented that China was the undertone of 2016 and is much more pronounced in 2020 because America in decline is inextricably linked to the evisceration of the manufacturing base in the heartland—losing jobs to China.

The Washington, DC consensus before the election was that a Biden administration would not change the direction of the current US-China relations—the two countries are bound to compete and confront each other head-to-head in all areas. In the technology sector, from research and development to applied technology services, China is growing so rapidly that it is threatening the US's long-held leadership position. While a Clinton or Obama era type of engagement with China is unlikely under the Biden administration, Washington's debate over a better approach continues. One camp is led by those who believe China's advancement is not based on fair competition or transparency, so "reciprocity" to protect American businesses must be the rule moving forward. This camp also believes that the root cause of those challenges is the Chinese Communist Party. Until there is a fundamental change in China's political system, the US should not trust or engage, which is generally reflected in the Trump administration's policies.

The other camp is led by those who believe in prioritizing investing in US competitiveness and innovation over current policies that aim to deter and undercut China. This camp also believes in a multilateral approach to building an international alliance to push back on certain China behaviors. We are likely to see this school of thought reflected in the upcoming Biden administration's policy. Neither camp trusts China to be the global leader in technology because its authoritarian political system may abuse technologies to surveil its citizens, silence political dissidents, and oppress ethnic minorities. For example, Eric Schmidt, Google's former chairman, recently warned that China is building a "high-tech authoritarianism" through AI.[43]

By the time this paper is published, the world would have witnessed the tasty exchanges during the very first US-China dialogue under the Biden administration that occurred in Alaska on March 18 and 19, 2021. While there was an early sense of relief among many for policy consistency and predictability when Biden was elected, including Chinese technology companies, it is anticipated that the real competition between the US and China to lead global technology has just begun.[44] The "witch-hunting" political climate may be over, but US technology industry leaders are calling for more clear and transparent domestic regulatory frameworks as well as global discussions on data and internet governance.

Realistically speaking, purely punitive policies toward Chinese technology companies are unlikely to lead the US technology sector to better competitiveness or greater access to the Chinese market. Chinese companies need to do much more to be regarded as trustworthy, outstanding corporate citizens in the eyes of US citizens and the US government. For the sake of both US and Chinese companies and their customers—and to fundamentally encourage technological competitiveness and to address cybersecurity, forced technology transfer or theft, and data protection and privacy concerns—the Biden administration should at least consider the following actions.

1. Establish an interagency technology council to thoroughly review technology from competitiveness, innovation, anti-trust, security, and privacy protection perspectives. The thinking and implementation of technology policies need to be embedded in every federal agency with policy implementation resources. The Biden administration appointed a deputy national security advisor to oversee cyber and emerging technology. While it is an elevation of technology in national security policymaking, the White House Office of Science and Technology (OSTP) needs to be further integrated into the National Security Council, National Economic Council, and Domestic Policy Council. In addition, regular outreach and consultation with the technology community needs to go beyond the usual big tech companies and lobbyists. We also need to closely consult with our allies and align security and economic interests.
2. Reverse Trump administration policies that are deemed hostile to international students and graduates. While staying vigilant about academic theft in research universities, the US must reinstitute a welcoming environment in universities to international students, especially those in STEM fields, to ensure the pipeline of talents. Support companies to hire international STEM graduates who have been the backbone of US technology innovation.
3. The US Congress must pass the National Privacy Act to set standards for collecting personal information and using such information. Currently, the CCPA passed in 2018 was most comprehensive in the nation, giving consumers more control over how their data can be collected and used. The CCPA is modeled on the European Union's GDPR passed in 2016 and is considered the most protective of consumer data privacy so far.
4. The US should also work through the United Nations International Telecom Union (ITU) with world governments to set global standards ranging from cross-border data management and governance to platform content moderation. If the ITU is not the ideal platform due to the distrust in its ability to facilitate fair policy discussions because its current secretary-general is of Chinese nationality, using other high-level government platforms such as G20, G7, the OECD, or the APEC could be an alternative. After all, returning to the table to shape rules is a better strategy.

5. The US government must enlist private sector talents and collaborate with high-tech companies to accelerate technology advancements in critical areas such as semiconductor production, 5G deployment, and AI application. While the Trump administration had the right prognosis of the challenges and initiated some work, its policies were devoid of industry input with pragmatic solutions. The Biden administration must correct the course while continuing the speed and recognition of the urgency.

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