IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

TIKTOK INC., *et al.*,	)	
Plaintiffs,	)	
v.	)	Civil Action No. 1:20-CV-2658-CJN
DONALD J. TRUMP, in his official capacity as President of the United States, *et al.*,	)	
Defendants.	)	

NOTICE OF GOVERNMENT'S POSITION REGARDING BRIEFING SCHEDULE FOR PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Plaintiffs in this matter have filed an emergency motion for a preliminary injunction and requested that the Government file a response within approximately 48 hours, and that the Court hold a hearing and issue a ruling over the weekend. *See* ECF No. 15 at 2. This emergency schedule is unnecessary and unwarranted.

As a procedural matter, this Court should not provide the Government minimal time to respond (and limited time for the Court itself to consider these issues) given Plaintiffs' own delay in filing their motion. Plaintiffs initially filed a similar lawsuit in the Central District of California almost a month ago. *See TikTok, Inc. v. Trump*, No. 2:20-cv-7672 (C.D. Cal. filed Aug. 24, 2020). Separately, on September 8, 2020, Plaintiffs informed the U.S. District Court for the Northern District of California that they intended to move to intervene in a different pending lawsuit seeking to enjoin enforcement of the Executive Order; Plaintiffs then elected not do so. Subsequently, Plaintiffs dismissed their complaint in the Central District of California and filed this suit. The timing of Plaintiffs' emergency motion thus appears to have been driven by their own litigation

decisions, and those decisions should not prejudice the Government by providing only a minimal time to respond.

As a substantive matter, there is no need for Plaintiffs' proposed emergency schedule. The Secretary of Commerce prohibited several transactions with respect to TikTok, but only one set of those prohibitions is scheduled to go into effect at 11:59 PM ET on Sunday, September 27, 2020. That set of prohibitions will effectively prevent new U.S. users from downloading TikTok, and will prevent existing U.S. users from receiving application updates, but will otherwise largely preserve the status quo with respect to Plaintiffs and their existing U.S. users. Accordingly, there is no need for the parties (or for this Court) to conduct emergency proceedings and wade into sensitive issues of national security and foreign policy on the basis of a limited record prepared on an extremely short timeframe.

Under these circumstances, where Plaintiffs themselves delayed filing their motion, and only a limited set of prohibitions will actually take effect on September 27, the Government respectfully submits that the default response time of seven days should apply to Plaintiffs' motion for a preliminary injunction. *See* Local Civil Rule 65(c).

Dated: September 23, 2020

Respectfully submitted,

JEFFREY BOSSERT CLARK
Acting Assistant Attorney General

AUGUST FLENTJE
Special Counsel to the Acting
Assistant Attorney General

ALEXANDER K. HAAS
Branch Director

DIANE KELLEHER
Assistant Branch Director

/s/ Daniel Schwei
DANIEL SCHWEI
Special Counsel
SERENA M. ORLOFF
MICHAEL DREZNER
AMY E. POWELL
STUART J. ROBINSON
Trial Attorneys
United States Department of Justice
Civil Division, Federal Programs Branch
Ben Franklin Station, P.O. Box No. 883
Washington, DC 20044
Phone: (202) 305-8693
Fax: (202) 616-8470
E-mail: daniel.s.schwei@usdoj.gov

Counsel for Defendants