

Nos. 24-656, 24-657

---

IN THE  
**Supreme Court of the United States**

---

TIKTOK INC., ET AL.,

*Petitioners,*

v.

MERRICK B. GARLAND, IN HIS OFFICIAL CAPACITY AS ATTORNEY GENERAL OF THE  
UNITED STATES

*Respondent.*

---

BRIAN FIREBAUGH, ET AL.,

*Petitioners,*

v.

MERRICK B. GARLAND, IN HIS OFFICIAL CAPACITY AS ATTORNEY GENERAL OF THE  
UNITED STATES

*Respondent.*

---

**PETITIONERS' UNOPPOSED JOINT MOTION FOR  
DIVIDED ARGUMENT**

---

## **RULE 29.6 STATEMENT**

Pursuant to Rule 29.6, Petitioner TikTok Inc. is a wholly owned subsidiary of TikTok LLC; TikTok LLC is a wholly owned subsidiary of TikTok Ltd.; and TikTok Ltd. is a wholly owned subsidiary of Petitioner ByteDance Ltd., a privately held corporation. No publicly traded company owns 10% or more of Petitioners' stock.

Pursuant to Rule 29.6, BASED Politics, Inc. states that it is a Georgia 501(c)(3) nonprofit organization that publishes educational content on free markets and individual liberty. BASED Politics, Inc. has no parent. No publicly traded company owns 10% or more of the stock of BASED Politics, Inc. The remaining petitioners are individuals.

Pursuant to Rules 21 and 28.4 of this Court, petitioners in No. 24-656, TikTok, Inc. and ByteDance Ltd. (“TikTok Petitioners”), and petitioners in No. 24-657, Brian Firebaugh, Chloe Joy Sexton, Talia Cadet, Timothy Martin, Kiera Spann, Paul Tran, Christopher Townsend, Steven King (“Creator Petitioners”), and BASED Politics, Inc. (“Based”) jointly move for divided argument.

These consolidated cases have been set for oral argument on January 10, 2025, with a total allotted time of two hours. TikTok Petitioners and Creator Petitioners each request 30 minutes of argument time. (Although Creator Petitioners and Based have separate underlying cases and are represented by different counsel, they propose a single advocate for all creators on the TikTok platform.) This division of argument time will enable the Court to receive the benefit of these petitioners’ distinct perspectives and arguments, while ensuring that all petitioners’ interests are fully represented.

This Court has granted divided argument in other consolidated cases presenting similar situations. The Court should follow the same approach here. The government has informed petitioners’ counsel that the government does not oppose this request to divide petitioners’ time equally.

In support of divided argument, petitioners state:

1. These cases present the question: “Whether the Protecting Americans from Foreign Adversary Controlled Applications Act, as applied to petitioners, violates the First Amendment.” All petitioners maintain that the Act contravenes the First Amendment as applied to them.

2. The Act, however, violates the First Amendment rights of petitioners in different ways. TikTok Petitioners provide the online TikTok platform in the United States. The Act restricts their First Amendment rights by precluding them from operating a speech platform and expressively associating to curate content delivered to TikTok users. By contrast, Creator Petitioners and Based are among the 170 million Americans who use TikTok to publish their views on politics, religion, literature, sports, entertainment, and other topics. The Act restricts their First Amendment rights by preventing them from speaking through their preferred forum and in their preferred medium, associating with the editor and publisher of their choice, and receiving their fellow users' ideas. Petitioners thus have different perspectives on the legal issues at stake here and provide different ways for this Court to approach the question presented. *Cf.* J.A. 23 (majority opinion) (focusing on TikTok Petitioners' claims); J.A. 75 (Srinivasan, C.J., concurring in part and concurring in the judgment) (focusing on Creator Petitioners' and Based's claims).

3. Given their differing interests, petitioners filed three separate petitions challenging the Act in the D.C. Circuit. *See TikTok Inc. v. Garland*, No. 24-1113 (D.C. Cir.); *Firebaugh v. Garland*, No. 24-1130 (D.C. Cir.); *BASED Politics Inc. v. Garland*, No. 24-1183 (D.C. Cir.). Counsel for both TikTok Petitioners and Creator Petitioners presented argument in the Court of Appeals. And petitioners filed separate applications for injunctive relief to this Court, which the Court treated as petitions for writs of certiorari and granted. Divided argument will illuminate petitioners' distinct interests and enable the Court to explore their implications.

Allowing divided argument here would be consistent with this Court’s approach in similar circumstances. “Having more than one lawyer argue on a side is justifiable . . . when they represent different parties with different interests or positions.” Stephen M. Shapiro, *et al.*, *Supreme Court Practice* § 14.5 (11th ed. 2019). So this Court has often granted divided argument in consolidated cases where the parties have emphasized different arguments or interests in support of the same result. *See, e.g., Becerra v. San Carlos Apache Tribe*, 144 S. Ct. 1005 (2024) (mem.); *Truck Ins. Exch. v. Kaiser Gypsum Co.*, 144 S. Ct. 996 (2024) (mem.); *Brown v. United States*, 144 S. Ct. 64 (2023) (mem.); *Moore v. Harper*, 143 S. Ct. 401 (2022) (mem.). It has also often done so where, as here, a case presents weighty questions of significant public importance. *E.g., Students for Fair Admissions, Inc. v. Univ. of N.C.*, 143 S. Ct. 46 (2022) (mem.); *Brnovich v. Democratic Nat’l Comm.*, 141 S. Ct. 1263 (2021) (mem.); *Masterpiece Cakeshop, Ltd. v. Colo. Civil Rights Comm’n*, 583 U.S. 991 (2017) (mem.); *United States v. Texas*, 578 U.S. 917 (2016) (mem.). The Court should do the same here.

\* \* \*

For the foregoing reasons, petitioners request that the Court divide oral argument time equally between petitioners in No. 24-656 and petitioners in No. 24-657.

/s/ Noel J. Francisco  
Noel J. Francisco  
*Counsel of Record*  
Hashim M. Mooppan  
Kelly Holt Rodriguez  
JONES DAY  
51 Louisiana Ave, NW  
Washington, DC 20001  
(202) 879-3939  
njfrancisco@jonesday.com

Andrew J. Pincus  
Avi M. Kupfer  
MAYER BROWN LLP  
1999 K Street, NW  
Washington, DC 20006

Alexander A. Berengaut  
David M. Zions  
Megan A. Crowley  
COVINGTON & BURLING LLP  
One CityCenter  
850 Tenth Street, NW  
Washington, DC 20001

John E. Hall  
Anders Linderot  
COVINGTON & BURLING LLP  
620 Eighth Avenue  
New York, New York 10018

*Counsel for TikTok Petitioners*

December 27, 2024

Respectfully submitted,

/s/ Jeffrey L. Fisher  
Jeffrey L. Fisher  
*Counsel of Record*  
O'MELVENY & MYERS LLP  
2765 Sand Hill Road  
Menlo Park, CA 94025  
(650) 473-2600  
jlfisher@omm.com

Joshua Revesz  
O'MELVENY & MYERS LLP  
1625 Eye Street NW  
Washington, DC 20006

Ambika Kumar  
Tim Cunningham  
James R. Sigel  
Adam S. Sieff  
Xiang Li  
DAVIS WRIGHT TREMAINE LLP  
920 Fifth Avenue, Suite 3300  
Seattle, Washington 98104

Elizabeth A. McNamara  
Chelsea T. Kelly  
DAVIS WRIGHT TREMAINE LLP  
1251 Avenue of the Americas  
New York, New York 10020

*Counsel for Creator Petitioners*

/s/ Jacob Huebert  
Jacob Huebert  
*Counsel of Record*  
Jeffrey M. Schwab  
LIBERTY JUSTICE CENTER  
7500 Rialto Blvd., Suite 1-250  
Austin, Texas 78735  
(512) 481-4400

*Counsel for BASED Politics, Inc.*