

# The ADvertising Coalition

March 12, 2020

The Honorable Guy Guzzone  
Chair  
Committee on Taxation & Budget  
Maryland State Senate  
Miller Senate Office Building, 3 West Wing  
Annapolis, Maryland 21401

The Honorable James C. Rosapepe  
Vice-Chair  
Committee on Taxation & Budget  
Maryland State Senate  
Miller Senate Office Building, 3 West Wing  
Annapolis, Maryland 21401

The Honorable Anne Kaiser  
Chair  
Committee on Ways and Means  
Maryland House of Delegates  
House Office Building, Room 131  
6 Bladen Street  
Annapolis, Maryland 21401

The Honorable Alonzo T. Washington  
Vice-Chair  
Committee on Ways and Means  
Maryland House of Delegates  
House Office Building, Room 131  
6 Bladen Street  
Annapolis, Maryland 21401

The Honorable Adrienne Jones  
Speaker of the House  
Maryland House of Delegates  
State House, H-101  
100 State Circle  
Annapolis, Maryland 21401

The Honorable Nicholaus Kipke  
House Minority Leader  
Maryland House of Delegates  
House Office Building, Room 212  
6 Bladen Street  
Annapolis, Maryland 21401

The Honorable Bill Ferguson  
President of the Senate  
Maryland State Senate  
State House, H-107  
100 State Circle  
Annapolis, Maryland 21401

The Honorable J.B. Jennings  
Senate Minority Leader  
Maryland State Senate  
James Senate Office Building, Room 423  
11 Bladen Street  
Annapolis, Maryland 21401

Dear Senators Ferguson, Jennings Guzzone, and Rosapepe and Delegates Jones, Kipke, Kaiser and Washington:

We write as national media and advertising trade associations and as members of The Advertising Coalition to express our strong opposition to the enactment of a state tax on digital advertising that would be imposed on the gross revenues of businesses operating in Maryland. Our national associations represent virtually every segment of the media and advertising industries in our country.

The Advertising Coalition understands and respects the important commitment the Maryland Legislature is making to this education initiative. However, we urge you to reject the proposal to pay for it by taxing commercial digital advertising that represents a vibrant and productive economic force helping to drive the State's economy.

Advertising, including the rapidly growing segment of digital advertising, is a powerful engine that helps drive the economy of the State of Maryland. Advertising expenditures generate \$101.5 billion of sales in Maryland – that represents 14.6 percent of the \$693.1 billion in total annual economic output for the State. These numbers are the product of economic research for the advertising industry that used an economic model developed by Nobel Laureate for Economics, Dr. Lawrence R. Klein. The research demonstrates that sales of products and services driven by advertising help support the jobs of 393,667 Marylanders. That is nearly 15 percent of the 2.6 million jobs in the State.

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We understand the importance of securing more funding for Maryland’s education programs. Nevertheless, the proposed tax on digital advertising would represent one of the most serious threats to commercial advertising in the United States in several decades. If Maryland were to enact this tax on advertising, it would become the first state or locality in the United States to impose a targeted, punitive tax on the gross revenue derived from digital advertising services.

Because Maryland would tax digital advertising but not tax non-digital advertising, the proposed levy would constitute a “discriminatory tax” prohibited by the Permanent Internet Tax Freedom Act (PITFA). While the anticipated revenues from this tax may seem popular initially, the adoption of an arbitrary threshold of global annual gross revenues would tend to tax larger global advertising service providers at a higher tax rate than their domestic counterparts. This would be constitutionally suspect under the Commerce Clause of the U.S. Constitution. The proposal also raises serious First Amendment concerns because it singles out digital commercial speech for a punitive tax.

Regardless of how the proposed tax is characterized as channeling untapped revenues for education, the real burden of the new tax will fall on Maryland residents and Maryland businesses who are consumers of advertising services within a digital interface. Advertising service providers can be expected to pass the tax onto their customers, including Maryland brick and mortar businesses that seek to reach new customers online. A study by Deloitte Taj of the digital advertising tax adopted in France confirms this projected outcome. It found that 55 percent of that tax burden would be passed on to end consumers who would pay higher prices for every good and service they use, online or offline. It is important to note that France has suspended its digital tax through the end of this year.

While we respect and support your goal to identify and direct substantial new financial resources toward the education of Maryland’s children, we believe your proposed digital advertising tax will impose a massive long-term debt on the present and future taxpayers of the State. We strongly urge you to reject S.B. 2 and H.B. 695.

Respectfully,

American Advertising Federation

American Association of Advertising Agencies

Association of National Advertisers

Maryland-DC-Delaware Broadcasters Association

MPA –The Association of Magazine Media

National Association of Broadcasters

NCTA – The Internet & Television Association

News Media Alliance

The Advertising Coalition