

February 17, 2021

Representative Becky Beard  
Chair  
PO Box 85  
Elliston, MT 59728

Representative Tom Welch  
Vice Chair  
607 Highland Avenue  
Dillon, MT 59725

Representative Dave Fern  
Vice Chair  
211 Dakota Avenue  
Whitefish, MT 59937

Re: Opposition to HB 363

Dear Distinguished Members of the Montana House of Representatives Taxation Committee:

MPA – The Association of Magazine Media, the trade association of the magazine industry, writes to express our extreme concern over the digital advertising tax proposed in HB 363. A discriminatory tax on digital advertising revenue would negatively affect media outlets providing essential news information to Montana communities, impose passthrough costs on local Montana businesses and non-profits in an already challenging economic climate, and pose serious constitutional concerns. We respectfully urge you to oppose HB 363.

MPA's membership includes more than 500 magazine media brands that span a vast range of genres across print, digital, mobile and video media. Our members provide trusted, edited and curated content that informs, inspires and entertains more than 90 percent of all U.S. adults. Montanans receive more than 830,000 magazine subscriptions, representing an average of 2 subscriptions per household. Our readers depend on our publications for reliable news and information – needed by society now more than ever.

In this time of great public health concern, trusted media sources play an essential role in providing valuable information to the communities they serve. Digital advertising revenue is particularly important at a time when many news and media outlets – including magazine publishers – have temporarily suspended paywalls to allow people access to information on breaking news events, including the current public health emergency.

Digital advertising is an affordable awareness and audience generation tool for brick and mortar businesses and non-profit organizations. Imposing additional costs to local businesses, even if passed through from larger advertising entities, could jeopardize the viability of news media outlets, harm local businesses, and forestall the economic recovery for the state in normal times. In the current political, public health and economic environment, such a measure is all the more misguided.

Proponents of the tax have focused their discussions on the financial impact to large advertising platforms. In reality, the financial impact of the tax would be felt by all entities in the advertising ecosystem, including an expected increase in costs to Montana's businesses and non-profits.

HB 363 also raises serious First Amendment concerns because it singles out one form of speech – digital commercial speech – for taxation. By imposing a tax on a specific channel of advertising revenue, including and especially on interfaces associated with news media, the bill raises concerns about restrictions on commercial speech, political speech and ideological speech on digital platforms. Given the high likelihood of legal challenges, it is far from certain that the state will achieve the revenue sought by the bill.

If enacted, the proposed tax measure will harm magazine media and other news sources serving Montana, Montana's businesses and non-profits across all sectors, and Montana taxpayers.

On behalf of the magazine media industry, MPA respectfully urges you to oppose HB 363.

Respectfully submitted,

Rita Cohen  
Senior Vice President

Emily Emery  
Director, Digital Policy

CC: Representative Jeremy Trebas