February 24, 2023

The Honorable John W. Fonfara
Co-Chair, Finance, Revenue and Bonding Committee
Connecticut General Assembly
State Capitol
Hartford, Connecticut 06106-1562

The Honorable Maria P. Horn
Co-Chair, Finance, Revenue and Bonding Committee
Connecticut General Assembly
State Capitol
Hartford, Connecticut 06106-1562

RE: HB 5673 – Taxation of Digital Advertising Revenue - OPPOSE

Dear Senator Fonfara, Representative Horn, and Members of the Joint Committee:

We write to you to express our strong opposition to the proposed digital advertising tax on the gross revenues of businesses operating in Connecticut under the provisions of HB 5673. Advertising, including the rapidly growing segment of digital advertising, is a powerful engine that drives the economy of the State of Connecticut.

Advertising accounts for $110 billion in economic activity in Connecticut, and over 349,000 jobs in the state. These results are based on economic research released in November 2021 by IHS Markit (available here: https://www.ana.net/content/show/id/adtax), and foundationally based on an economic model developed by the 1980 Nobel Laureate for Economic Science, Dr. Lawrence R. Klein. The research further shows that every 1 advertising job in the state supported 57 Connecticut jobs.

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 Connecticut were to enact this tax on advertising, it would become only the second state or locality in the United States to impose a targeted, punitive tax on the gross revenue derived from digital advertising services.

Because Connecticut 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). Moreover, the adoption of an arbitrary threshold of annual gross revenues would tend to tax larger, out-of-state advertising service providers at a higher tax rate than their Connecticut 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 would single out digital commercial speech for a punitive tax.

It is worth noting that Maryland enacted a similar tax in 2021, and it was immediately challenged with state and federal litigation. In 2022, a Maryland Circuit Court invalidated the Maryland tax for violating the PITFA and was unconstitutional on multiple grounds. This decision is presently under review by the state’s Supreme Court.
Although the anticipated revenues from the tax may seem popular initially, the real burden of the new tax would fall on Connecticut residents and Connecticut 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 Connecticut brick and mortar businesses that seek to reach new customers online. A study by Deloitte Tax 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 consumers who would pay higher prices for every good and service they use, online or offline.

While we respect the bill’s stated purpose to reduce taxes for Connecticut’s middle-income taxpayers and seniors, we believe the proposed tax on digital advertising revenues will impose a massive long-term burden on the present and future taxpayers of the State. We strongly urge you to reject HB 5673.

Respectfully submitted,

Americans for Digital Opportunity
Association of National Advertisers (ANA)
American Advertising Federation (AAF)
American Association of Advertising Agencies (4A’s)
Chamber of Progress
Computer & Communications Industry Association (CCIA)
Consumer Brands Association
Council on State Taxation (COST)
Exhibitions & Conferences Alliance
Interactive Advertising Bureau (IAB)
Internet Coalition
Motion Picture Association (MPA)
National Association of Broadcasters (NAB)
National Taxpayers Union
NCTA - The Internet & Television Association
NetChoice
New York State Broadcasters Association
News/Media Alliance
TechNet