

October 11, 2023



Senator Susan Moran
Chair - Joint Committee on Revenue
24 Beacon St.
Room 312-D
Boston, MA, 02133

Senator Michael Brady
Vice Chair – Joint Committee on Revenue
24 Beacon St.
Room 416-A
Boston, MA, 02133

Representative Mark Cusack
Chair – Joint Committee on Revenue
24 Beacon St.
Room 34
Boston, MA, 02133

Representative David Paul Linksy
Vice Chair – Joint Committee on Revenue
24 Beacon St.
Room 167
Boston, MA, 02133

S. 1892 – Taxation of Mental Health Impacts of Social Media - OPPOSE

Dear Chair Moran, Chair Cusack, Vice Chair Brady, and Vice Chair Linksy and members of the Joint Committee on Revenue:

We write to you to express our strong opposition to S. 1892 which would impose unwarranted taxation on data collected by commercial data collectors. This bill will harm both Massachusetts businesses and consumers. Advertising in the 21st century relies heavily on the responsible collection and use of data, which powers tremendous business growth, new product development, and a healthy, competitive marketplace. Data-driven advertising allows Massachusetts consumers to discover new products and services at the best prices, benefit from free or subsidized internet content, and receive relevant advertising content about products or services that are personalized to them.

Advertising spending has significant impacts in Massachusetts, accounting for more than \$500 million in added value in the Commonwealth; and each advertising sector job leverages 36 jobs in Massachusetts. These impacts include almost \$14 million in economic effects and more than 53,000 jobs in the 9th Congressional District encompassing Plymouth and Barnstable. 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 Memorial Prize laureate in Economic Sciences, Dr. Lawrence R. Klein. The research also shows other significant ad-related impacts in Massachusetts.

The proposed tax on data collection would represent one of the most serious threats to commercial advertising in the United States in several decades. If Massachusetts were to enact this tax on the

free flow of data, it would become the only state or locality in the United States to impose a tax on businesses that utilize commercial data to reach new customers.

Because businesses of all sizes, from local, small and medium sized entities to nationally known brands, use data to reach consumers, the impact on the Massachusetts business community would be far-reaching. Taxing the use of data in the Commonwealth would greatly diminish the ability of small businesses to compete in today's economy, by hampering their ability to enter the market and drastically slowing innovation and economic growth in Massachusetts.

Although the anticipated revenues from the tax may seem beneficial initially, the real burden of the new tax would be passed down to Massachusetts residents and businesses who are consumers of advertising services within the data-driven marketplace. A tax on the collection of consumer data would lead to higher costs for advertisers to acquire new consumers, eventually creating a dramatic increase in the cost of products and services for Bay State residents.

Due to increased costs, advertising service providers and other businesses can be expected to pass the tax onto their customers, including small, brick and mortar businesses in Massachusetts that seek to reach new customers online. A recent study by Deloitte Tax of a tax on a digital advertising adopted in France confirms this projected outcome. It found that 55 percent of that tax burden was passed onto consumers, inflating prices for every good and service they used, online or offline.

Finally, S. 1892's adoption of an arbitrary threshold of customers would tend to tax larger, multi-jurisdictional businesses at a higher tax rate than their Massachusetts counterparts. This would be constitutionally suspect under the Commerce Clause of the U.S. Constitution. The proposal also raises serious First Amendment concerns because of the impermissible constraints it places on commercial speech.

While we recognize S. 1892's intent to find new sources of revenue, we believe the proposed tax on commercial data collectors will impose a significant and long-term burden on the present and future taxpayers of the Commonwealth. Given the serious concerns outlined above, we strongly urge you to reconsider S. 1892.

Respectfully submitted,

Association of National Advertisers (ANA)
Americans for Digital Opportunity
American Association of Advertising Agencies (4As)
American Advertising Federation (AAF)
Connecticut Broadcasters Association (CBA)
CCIA – Computer & Communications Industry Association
COST – Council on State Taxation
Internet Coalition
Massachusetts Newspaper Publishers Association (MPNA)
NetChoice
TechNet