



January 3, 2024

The Honorable Kathy Hochul
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Dear Governor Hochul:

On behalf of New York State and national media and advertising associations, other interested organizations, and Americans for Digital Opportunity, we are writing to express our strong opposition to a potential state tax on digital advertising. Given that New York is the home of American advertising and the millions of jobs that it supports, we are extremely concerned that such a damaging proposal would be given consideration. At the same time, we are heartened by your [commitment](#) not to raise taxes in the 2024-25 Budget, but out of an abundance of caution we felt compelled to weigh in about the perils of a digital advertising tax should the Administration consider deviating from this commitment.

Advertising is a major driver of economic activity in New York. According to a recent study commissioned by the Association of National Advertisers, advertising expenditures generated \$652.7 billion in economic activity, while supporting 1.98 million jobs in New York. This accounts for 20 percent of all jobs in New York. Simply put, New York is a global leader in the advertising industry and should be doing everything possible to protect it—not considering legislation that would endanger it.

Over the last decade, America's economy has been transformed by advances in technology and nowhere has this transformation been more evident than in digital advertising. The ability of businesses of all sizes to access online platforms and reach countless potential customers has leveled the playing field allowing start-ups, local newspapers, and New York's 2.3 million small businesses to grow and find success.

From Madison Avenue to Times Square, New York's connection and history to advertising is unmatched. For over a century, advertising has driven recent college graduates, budding entrepreneurs, and tens of millions of tourists annually to the Empire State. Creating new taxes on advertising will stain this storied past and jeopardize the future of the industry in New York, driving people and investment away.

Despite what some want to believe, new taxes on digital advertising would only marginally impact multi-billion-dollar corporations. Small business owners and consumers would be impacted the most. The consequences of digital advertising taxes are well known. A study commissioned by Deloitte, found that France's digital advertising tax impacted consumers the most; 55 percent of the total tax burden was passed on to consumers, while only 5 percent of the costs were felt by large companies.

New Yorkers are already facing challenging times. Burdening them with additional taxes while they are already dealing with the lingering consequences of runaway inflation exacerbates the already high cost of living and working in New York, factors that contribute to continued out migration.

In addition to the alarming economic impacts that a digital advertising tax will create, the legal uncertainty of such a proposal is an additional concern. As seen in Maryland, digital advertising taxes are facing legal challenges for violating the Permanent Internet Tax Freedom Act (PITFA) and First Amendment concerns. Should a digital advertising tax be enacted and then deemed unconstitutional by the court system, New York would have to repay these tax collections—further complicating the state's already challenging fiscal situation.

A digital advertising tax would also result in double taxation, because unlike in Europe, income from digital advertising is already taxable under states' corporate and individual income tax laws. This means that a special tax on digital advertising would constitute another tax on the same economic activity.

New York is unquestionably the home of American advertising. For it to stay that way, we urge you to oppose any proposal to tax digital advertising.

Respectfully submitted,

Americans for Digital Opportunity (ADO)
Association of National Advertisers (ANA)
American Advertising Federation
American Association of Advertising Agencies (4A's)
Computer & Communications Industry Association (CCIA)
Connecticut Broadcasters Association
Council On State Taxation (COST)
Exhibitions & Conferences Alliance
Internet Coalition
Minnesota Broadcasters Association
National Association of Broadcasters
National Taxpayers Union (NTU)
Net Choice
Network Advertising Initiative (NAI)
New York State Broadcasters Association
Salem Media Group
Travel Tech Association

Cc: The Honorable Blake Washington, Budget Director for the State of New York
Stacy Lynch, Chief of Staff for the Governor of New York
Micah Lasher, Director of Policy for the Governor of New York
Karen Persichilli Keogh, Secretary for the Governor of New York

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