

June 2, 2025

The Honorable Mike Dunleavy
Office of the Governor
P.O. Box 110001
Juneau, AK 99811-0001

Re: SB 113 – “An Act relating to the Multistate Tax Compact; relating to apportionment of income to the state; relating to highly digitized businesses subject to the Alaska Net Income Tax Act; and providing for an effective date.” (Veto Request)

Dear Governor Dunleavy:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully request a veto of SB 113. CCIA is an international, not-for-profit trade association representing a broad cross-section of communications and technology firms.¹ Proposed regulations on the interstate provision of digital services can have a significant impact on CCIA members.

Policies that focus on taxing digital services misunderstand the value of their functions and tools for internet users. Economies, especially at the state level, are being transformed by digital advertising, and governments must consider these benefits as they aim to support the innovation economy and businesses that are just starting. Many of these taxes also create a financial strain on the small businesses that rely on free services and affordable advertising to reach their audiences the most. Past CCIA research has found that 85% of startups utilize marketing and digital advertising software, and access to these tools is invaluable as businesses seek to reach new audiences and communicate with potential customers.²

Under SB 113, “highly digitized businesses” would be “apportioned” to this state into a “sales factor.” This would increase the share of worldwide income subject to Alaska’s corporate income tax, even if the business has minimal property and payroll within the state. Furthermore, the bill’s definition of “intangible property” also pulls streaming and the electronic transmission of digital goods into the proposed sales factor whenever a viewer is in Alaska. This raises a variety of legal and policy concerns that could lead to market fragmentation and discourage further investment in innovation and infrastructure, as further detailed below.

SB 113 conflicts with current law and is likely to lead to costly litigation.

Similar to other taxes that have been enacted or considered, SB 113 conflicts with the federal Internet Tax Freedom Act (ITFA), which prohibits states from imposing “discriminatory taxes

¹ For more than 50 years, CCIA has promoted open markets, open systems, and open networks. CCIA members employ more than 1.6 million workers, invest more than \$100 billion in research and development, and contribute trillions of dollars in productivity to the global economy. A list of CCIA members is available at <https://www.ccianet.org/members>.

² *Tools To Compete: Lower Costs, More Resources, and the Symbiosis of the Tech Ecosystem*, CCIA Research Center (Jan. 25, 2023), <https://ccianet.org/research/reports/tools-to-compete/>

on electronic commerce". Given that the proposed bill only targets a tax on specific companies in a handful of specific industries with certain revenues, it is clear these provisions are likely to only target online business activities in a way that cannot be applied to offline activities, and therefore fall under the scope of a "discriminatory tax".

Previous efforts in various states have seen multiple challenges at both the state and federal levels. For example, Maryland's 2021 enactment of the "Digital Advertising Gross Revenues Tax" (DAGRT) was ruled "unconstitutional and illegal" by a state court.³ Many of these arguments also appear similarly applicable to the proposed tax under SB 113, given the revenue share threshold as well as similar definitions in the bills. In times of facing a budget shortfall⁴, it would be imprudent to advance legislation that is likely to face a similar fate of costly litigation.

SB 113 will harm overall innovation and business growth.

SB 113 violates many economic principles that should guide tax policy design. The guiding star of tax policy is that revenue should be raised efficiently. Imposing taxes tends to create incentives that distort behavior and produce deadweight losses for the economy, so taxes should be designed to minimize the size of those deadweight losses and harmful distortions.

These kinds of bills are a targeted effort that aims to collect taxes from a relatively small number of taxpayers in a specific industry. SB 113 is designed with a non-neutral, narrow tax base that creates inefficiencies and incentivizes costly efforts to avoid the tax. This is a significant general failure of the tax proposal in the bill, as it focuses on one industry within the economy. Some businesses will also likely find it challenging to determine if they are subject to the tax or exempt. This confusion could result in disputes and increased compliance costs. Reflecting a major departure from the importance of administrative ease in tax design, this type of differentiation is a clear case of poor tax design through the classification of certain services only being taxable when both the buyer and provider are business entities.

Many businesses with significant digital revenues are startups, and many startups are not yet reliably profitable and are operating on a fixed capital runway if they cannot reinvest income from sales. SB 113 stands to drain the resources of these businesses that reach Alaska by disproportionately imposing extra tax burdens on them, which often means the difference between successful scaling or premature shutdowns, especially because it defines these businesses as companies with over 50% of Alaska sales derived from intangible property or electronic delivery.

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In combination, the design failures of SB 113 would generate enormous inefficiencies for Alaska's consumers and businesses, making the state much less appealing for startups and

³ *Comcast of Calif., LLC v. Comptroller of the Treasury of Maryland*, No. C-02-CV-21-000509, 2022 WL 20359237 (Md. Cir. Ct. Nov. 17, 2022).

⁴ James Brooks, *New Alaska revenue forecast worsens state's big projected budget deficits*, Alaska Beacon (Mar. 13, 2025), <https://alaskabeacon.com/briefs/new-alaska-revenue-forecast-worsens-states-big-projected-budget-deficits/>.



other businesses in the innovation space. Because of this, CCIA respectfully requests a veto of SB 113.

Sincerely,

Aodhan Downey
State Policy Manager, West Region
Computer & Communications Industry Association