September 23, 2025

Massachusetts Joint Committee on Revenue
Attn: Anestis Kalaitzidis
24 Beacon St, Room 34
Boston, MA 02133

Re: H. 3208 - "An Act Establishing a Sales Tax on Digital Advertising Services" (Oppose)

Dear Chairs Eldridge and Madaro, Vice Chairs Jehlen and Linsky, and Members of the Joint Committee on Revenue:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose H. 3208 in advance of the Joint Committee on Revenue hearing on September 29, 2025. CCIA is an international, not-for-profit trade association representing a broad cross-section of communications and technology firms.[1] Therefore, 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. The U.S. economy, especially at the state level, is being transformed by digital advertising, and policymakers must consider these benefits as they aim to support the innovation economy and nascent 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 audiences the most. 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 H. 3208, "digital advertising services" would be subject to a sales tax of "6.25% of the gross sales price of the digital advertising service" on all vendors with gross annual digital advertising sales above $2.5 million. Additionally, the tax would be collected by the vendor at the time of the sale and then "remitted" to the Department of Revenue. This approach raises a variety of legal and policy concerns that could lead to market fragmentation and discourage further investment in innovation and infrastructure in the Commonwealth, as further detailed below.

H. 3208 conflicts with current law and is likely to lead to costly litigation.

While the bill would implement a sales tax, there are many aspects of the proposal that are the same as a gross receipts tax. The rate applies uniformly to the full gross price of the service, the exemptions are based on gross sales, and there are no deductions for costs or expenses.

[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/.

Similar to other gross receipts taxes that have been enacted or considered, H. 3208 conflicts with the federal Internet Tax Freedom Act (ITFA), which prohibits states from imposing "discriminatory taxes on electronic commerce". Given that the proposed bill only targets a tax on specific companies in one specific industry as opposed to traditional advertising, 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". Additionally, the bill risks multiple taxation based on user location (i.e., "within the Commonwealth") and singles out digitally-enabled commerce for differential treatment.

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] As the first state to pass this kind of legislation, it is telling that Maryland's governor is now looking to vast budget cuts to potentially make up for this shortfall in the 2025 legislative session.[4] In August 2025, the U.S. Court of Appeals for the Fourth Circuit ruled that the DAGRT is "an unconstitutional restriction on free speech," comparing the tax to the Colonial-era Stamp Act.[5] Many of these arguments also appear similarly applicable to the proposed tax under H. 3208, given the revenue threshold as well as similar definitions in both bills. In times of increasing concern with budget shortfalls, it would be imprudent to advance legislation that is likely to face a similar fate of costly litigation in the Commonwealth.[6]

H. 3208 will harm overall innovation and business growth.

If enacted, H. 3280 is likely to lead to increased costs for both small and medium-sized businesses. Startups, new businesses, and smaller advertisers—which are typically the most reliant on personalized digital ads, as they tend to be less expensive—will now find entry into the market even more difficult, as the sales tax includes an added cost that makes it difficult to compete with established brands that can afford higher ad costs. Additionally, those smaller businesses based in Massachusetts would face higher cost hurdles, which discourages experimentation and innovation within digital advertising.

One major such hurdle for smaller businesses is that this bill creates a tax cliff whereby the marginal dollar of ad sales from $2,499,999 to $2,500,000 creates a new tax liability of $156,250, meaning selling one extra dollar of ads actually costs the vendor $156,249 on net. This is an enormous concern for small businesses in the Commonwealth, who face a major incentive not to grow beyond $2.5 million in digital ad sales.

The bill also requires vendors to determine if a user is targeted by an ad "located in the Commonwealth." This geolocation sourcing would involve extremely complex requirements that are technically and legally difficult. These compliance burdens deter startups or smaller ad

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[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] *Maryland governor proposes $2B in budget cuts amid shortfall as 2025 legislative session opens*, WBAL TV (Jan. 8, 2025), https://www.wbaltv.com/article/maryland-budget-cuts-proposed-2025-legislative-session/63373302.
[5] *Appeals court rules provision of digital ad tax violates First Amendment protections*, Maryland Matters (Aug. 15, 2025), https://marylandmatters.org/2025/08/15/appeals-court-rules-provision-of-digital-ad-tax-violates-first-amendment-protections/.
[6] *Massachusetts budget secretary bracing for 'unavoidable deficiencies'*, The Berkshire Eagle (Sept. 26, 2024), https://www.berkshireeagle.com/state/massachusetts-budget-secretary-bracing-for-unavoidable-deficiencies/article_8ccbcdaa-7c44-11ef-a2d3-ab7be5aa913a.html.

tech players from operating in Massachusetts and favor larger companies with the means and infrastructure to manage jurisdictional tax rules.

Overall, H. 3208 would create significant long-term impacts for the Commonwealth's economy and competitiveness. Small and medium-sized businesses, as well as startups, typically operate on very thin margins and do not have the same resources as large organizations to bring services in-house or account for new taxes. This tax approach would punish smaller businesses in Massachusetts for not having the means or advertising budgets similar to those of large companies and could potentially cause business owners to raise prices, reduce their staff, or invest less in growth for the company.

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Before advancing this legislation, we urge lawmakers to first study both the benefits and drawbacks of these proposed requirements and to engage with practitioners and stakeholders to support the ongoing development of practicable solutions.

We appreciate the Committee's consideration of these comments and stand ready to provide additional information as the Legislature considers proposals related to technology policy.

Sincerely,

Kyle J. Sepe
State Policy Manager, Northeast Region
Computer & Communications Industry Association