February 27, 2020

The Honorable Anne R. Kaiser
Chair, Ways & Means Committee
Maryland House of Delegates
House Office Building. Room 131
6 Bladen Street
Annapolis, MD 21401

The Honorable Alonzo T. Washington
Vice-Chair, Ways & Means Committee
Maryland House of Delegates
House Office Building. Room 131
6 Bladen Street
Annapolis, MD 21401

RE: **HB 695 – Taxation of Digital Advertising Revenue - OPPOSE**

Dear Delegate Kaiser and Delegate Washington:

We write to you to express our strong opposition to the proposed digital advertising tax on the gross revenues of businesses operating in Maryland under the provisions of H.B. 695. Advertising, including the rapidly growing segment of digital advertising, is a powerful engine that helps drive the economy of the State of Maryland.

Advertising expenditures account for $101.5 billion of sales in Maryland. That represents 14.6 percent of the $693.1 billion in total economic output for the State. These results are based on economic research for the media and advertising industries that applied an economic model developed by the 1980 Nobel Laureate for Economic Science, Dr. Lawrence R. Klein. The research further shows that sales of products and services driven by advertising help support 393,667 jobs – nearly 15 percent of the 2.6 million jobs in the State.

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

Because Maryland 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). While we understand the importance of securing more funding for the State’s education programs, the adoption of an arbitrary threshold of global annual gross revenues would tend to tax larger global advertising service providers at a higher tax rate than their domestic counterparts. This would be constitutionally suspect under the Commerce Clause of the U.S. Constitution. The proposal also would raise serious First Amendment concerns because it singles out digital commercial speech for a punitive tax.

Although the anticipated revenues from the tax may seem popular initially, the real burden of the new tax would fall on Maryland residents and Maryland 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 Maryland 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. It is important to note that France has suspended its digital tax through the end of this year.

While we respect and support your goal to identify and direct substantial new financial resources toward the education of Maryland's children, we believe your proposed digital advertising tax will impose a massive long-term burden on the present and future taxpayers of the State. We strongly urge you to reject H.B. 695.

Respectfully submitted,

Association of National Advertisers (ANA)
American Advertising Federation (AAF)
American Association of Advertising Agencies (4A's)
CompTIA
Consumer Brands Association
Council on State Taxation (COST)
Interactive Advertising Bureau (IAB)
Internet Coalition
Maryland Chamber of Commerce
Maryland Retailers Association
MDDC Press Association
Motion Picture Association - America
MPA –The Association of Magazine Media
National Association of Broadcasters (NAB)
NCTA – The Internet & Television Association
The ADvertising Coalition